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UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY

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U.S. COAST GUARD
USCG-2003-14792-44
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PUBLIC MEETING

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WEDNESDAY,
JULY 23, 2003

The meeting was held at 9:00 a.m. in the Constitution Rooms A and B of the Grand Hyatt, 1000 H Street, NW, Washington, D.C., RADM Larry Hereth, Director of Port Security, presiding.

PRESENT:

RADM LARRY HERETH	Coast Guard
KATHLEEN CONWAY	Bureau of Customs and Border Protection
KEVIN KRICK	Maritime Administration
STEVEN RYBICKI	Transportation Security Administration

ALSO PRESENT:

CDR SUZANNE ENGLEBERT Coast Guard

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P-R-O-C-E-E-D-I-N-G-S

3:06 p.m.

CDR ENGLEBERT: Good morning. I'm Commander Suzanne Englebert, and I'm from the U.S. Coast Guard. And 17 months ago many of you were here for a three-day workshop, and we shared ideas and thought about maritime security, formed quite a bit of material from that three-day meeting 17 months ago in this very small -- well, actually, I think it was one room over, but some of you were in this room.

Seven months ago most of you came, as we held public meetings across the country, to talk once again about maritime security. Now we're here again. It should be very familiar territory to most of you. I hope so anyway.

To kick off the meeting today I'd like to introduce to you the Director of Port Security of the U.S. Coast Guard, Admiral Hereth.

RADM HERETH: Thanks to and good everybody. Welcome to the public meeting. We have a lot to cover today. Just some brief comments about the meeting. Certainly, this is a culmination of a big effort, and we will continue to solicit your comments till the close of the end of the comment period and consider everybody's comments and try to

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1 shape up these -- continue to shape up these
2 regulations in a very sensible way.

3 We have received tremendous support from a
4 variety of perspectives, not only the seven public
5 meetings that we conducted previously, we got
6 tremendous input and comments. I think about 2,100
7 people participated in those seven public meetings
8 around the country, and we sincerely appreciate your
9 input to the process. It's been very helpful, and we
10 continue to look forward to that today. With me on
11 the panel this morning, Sue, of course, will be
12 facilitating the discussion or the comment period, but
13 we also have representatives from the other three
14 agencies that are partnered with us in this reg
15 project, and they really have been a key to getting
16 this out, this set of regs out, the temporary rule out
17 in a timely and quick way, and TSA, Customs, or CPB,
18 and MARAD have just been wonderful partners in the
19 process.

20 I'd like to introduce Steve Rybicki who is
21 the Director of Cargo Security for Maritime and Land
22 with TSA. Steve. And Ms. Kathleen Conway from
23 Customs and Border Protection who is the Director of
24 Interdiction and Seaport Security, and Kevin Krick who
25 is the Special Assistant to the Administrator of

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1 MARAD. These agencies have partnered with us all
2 along the way, they and their staffs, and have really
3 helped us I think shape the regulation up into where
4 it is today.

5 As you all know if you've looked through
6 the regs, they're divided up into six parts, and let
7 me just make a couple of comments about the regs
8 themselves. We've divided them into six parts,
9 aligned as you see the chart up there on the slide,
10 and a copy of these slides -- all the slides that
11 you'll see today there's a copy of that on the table
12 and hopefully you have a copy of that for notetaking
13 or for whatever benefit you might gain from it. But
14 the construct of the regulations was purposeful but
15 also given a lot of thought in terms of parallel
16 construction and trying to make it as user friendly as
17 possible. In any reg project that deals with a
18 diverse topic like port security where there's such
19 diversity and such complexity out there, it needs a
20 lot of thought, a lot of work and a lot of effort to
21 make sure that people can understand it and deal with
22 it in as easy a fashion as possible, and we put a lot
23 of thought and content and effort into that issue.

24 The construct of the regs is like that.
25 There's a common organizational approach, again,

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1 focused on user friendliness and trying to make the
2 regs as easy to understand as possible. There's a
3 general section in many of the sections particularly
4 dealing with vessels and facilities and offshore.
5 Then we lay out some standards in the security
6 requirement section. Then we ask people to assist
7 themselves against those security requirements. And
8 then, finally, based on the outcome of that assessment
9 we ask them to develop a security plan. And you'll
10 see a common thread like that throughout the
11 regulations.

12 (Court Reporter interrupts with sound
13 problem.)

14 RADM HERETH: Can everyone hear? Anybody
15 that can't hear, please raise your hand. Okay. So
16 anyway we have a similar construct to a couple of the
17 different reg sections. Part 103 that deals with area
18 maritime committees is a little bit different but
19 also requires assessment and development of a port-
20 wide plan. That's a huge lift that will involve a
21 number of people in the port community. And then all
22 the general stuff is in Part 101, definitions and so
23 forth.

24 Let me just make a comment about the
25 Administrative Procedure Act. The temporary interim

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1 rule up until that point Congress gave us a waiver to
2 the Administrative Procedure Act. So that meant we
3 could conduct discussions, we could have dialogue, we
4 could engage in a back and forth discussion or
5 dialogue during the public meetings that we conducted
6 around the country. However, that waiver to the APA
7 ceased on the 1st of July when we published the
8 temporary interim rule. So please understand today
9 that we are more in a listening mode today. We are in
10 a predecisional period during this comment period till
11 the end of the month, so we're not in a position today
12 to say, "Pete or Jim or Sue, that's a wonderful
13 comment and we're going to put that in the regs." We
14 can't respond like that, obviously. We're in a
15 predecisional mode, so we're basically in the
16 listening mode. Please don't be offended by that.

17 As you know, from working with the Coast
18 Guard and other agencies up here, we're eager to talk
19 and dialogue and discuss issues with you; however,
20 given the fact that we published the rule, TIR, on the
21 1st of July, we're now covered by the Administrative
22 Procedure Act and just be careful and understand that
23 we're going to be careful about following the letter
24 of the law and doing everything in a public fashion,
25 making sure we're above board and discussing things in

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1 a public way. So we can't respond to your comments,
2 we can't talk to you really about the rule at the
3 breaks and talk -- or at lunch, unfortunately, but
4 that's the rules under which we have to conduct
5 business today.

6 And with that, let me turn it over to Sue,
7 and we're going to go over some administrative rules
8 of engagement here this morning. And we look forward
9 to your comments. Again, we think this will add
10 greatly to our understanding of how our rules are
11 being perceived and how they might be implemented
12 properly, swiftly and quickly to improve security
13 around the country. Thanks.

14 CDR ENGLEBERT: And we're off. First, for
15 the administrative issues. You should have gotten a
16 copy of today's agenda with a handout. If you don't,
17 please raise your hand and we'll have somebody bring
18 you one, we have plenty. You're going to have to keep
19 your hands up for just a little bit while they grab
20 copies. Okay. There will be an order to today's
21 review of the rules and acceptance of comments. We'll
22 be covering Parts 101, 102, in order, 103, 104, 105,
23 106 and AIS. I'll be reviewing the key dates for this
24 rulemaking, and we'll have final remarks.

25 There were attendance sheets as you came

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1 in the door. We ask that you fill those attendance
2 sheets out. They will be part of the public docket.
3 And as one person already noticed, we're going to ask
4 you to turn off your beeper or your cell phone. So,
5 everybody, right now, all together, I don't see too
6 many heads going down and looking at your --
7 everybody, down, turn off your beeper and your cell
8 phone. Thank you. If you do want to make a phone
9 call, we would ask that you go into the hallway to
10 make a phone call so as not to disturb all the rest of
11 the folks in the room that are trying to hear what's
12 going on here today.

13 This is an unusual thing, there will be
14 some breaks. We're going to have two scheduled
15 breaks. In addition, we might have lunch. The two
16 breaks, there will be one in mid-morning and there
17 will be one in mid-afternoon. Lunch break will be
18 approximately 12:30. We will go until I feel it is a
19 good place to break and then we'll break, but 12:30,
20 12:45 at the latest. There was a handout that showed
21 you some places that are available close for lunch.
22 The lunch hour will only be an hour, but there's
23 plenty of places in the local area that you can get
24 lunch. As always, if you need to leave, please do so.
25 We're going to keep on going on run through all of

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1 this material at a fast clip, but if you need to step
2 out of the room, please do so. There will be coffee,
3 it's quite good, and doughnuts and things to eat back
4 there in case you have a little of a sugar low.

5 We have arranged an opportunity for the
6 media. If you're a member of the press, we ask that
7 you hold your questions until the media availability
8 which will be at approximately 1315 or 1:15 -- they're
9 both the same time. You can also see Ms. Jolie
10 Shifflet who is right there. Please see Jolie and
11 she'll take care of your questions and make sure that
12 you're in the right spot at the right time for this.
13 Also, restrooms are outside to your left, walk about a
14 block and on your right you'll see them. It's not
15 quite a block.

16 Okay. Some of you know this, some of you
17 don't. I'll cover this etiquette for the meeting. I
18 request that when I call for comments you go to the
19 microphone at the middle of the room, you clearly
20 state your name, the business or organization that you
21 represent, and you leave us a business card in the
22 donation box, just the card, no money, no anything --
23 just the card. This will be used to ensure that the
24 transcript properly records your spelling of your name
25 and your organization. As I just mentioned, there

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1 will be a transcript of today's meeting, and a copy of
2 that transcript will be made and posted to the docket
3 as soon as absolutely possible. We will desperately
4 try to get this in the docket before the end of July.

5 I ask that when you make your comments if
6 you have prepared a written statement, that you
7 summarize that written statement rather than reading
8 it in its entirety. You'll see why. You may submit
9 your written statements to us today and we will post
10 them to the docket for you. If you choose this
11 option, the donation box in front of the microphone
12 can be used to put your written statement in. Please
13 make sure that before you put your written statement
14 in you clearly put your name, the organization you
15 represent and the docket number that you wish the
16 written statement to be entered under, the docket
17 number, and of course you have your Federal Register
18 with six docket numbers, so pick one.

19 Also, if you do intend to submit a written
20 statement for us to post for you today, if you could
21 put it in the box before lunch, we would greatly
22 appreciate it, because we will start posting to the
23 docket this afternoon so that everything is as quick
24 as possible and everyone else can see what you have
25 for a comment.

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1 As you go up to the microphone, you will
2 find that you will be timed. You will have three
3 minutes to make your statement. At the one minute
4 left mark, you will see a yellow indicator. At the
5 please stop, you will see a red card. If you do not
6 pay attention to my red card, I will interrupt you and
7 ask you to be done. Also, before you run away from
8 the microphone, please stay there for just a bit of
9 time to make sure that there isn't a desire from the
10 panel to ask you a clarifying question. In addition,
11 if you ask a question of the panel, I will ask you to
12 rephrase it as a statement. As the Admiral clearly
13 pointed out, we are in a listening mode for this
14 public meeting. So if you choose to ask a question in
15 your statement, I will interrupt you and ask you to
16 please rephrase it as a comment to the docket. So if
17 you have written statements right now, change them,
18 please, so that I don't have to interrupt you.

19 We do have an order for today's meeting,
20 as I mentioned. There are six separate dockets. We
21 have structured the order of the discussion to talk
22 about each docket in sequence. Please stick to the
23 subject at hand in your comment. I'm not limiting you
24 to how many times you can come up to the microphone.
25 So if you have a comment for each of six dockets, I

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1 would expect that you came up six times. The reason
2 that we ordered this way is so that we can deal with
3 the comments in the appropriate docket. And, also, we
4 intend to take the transcript and publish the part
5 that's appropriate for each docket in the separate
6 docket. For instance, the facility discussion today,
7 that transcript section will be in the facility docket
8 for those people that don't particularly care to read
9 any other dockets. I will remind you now, and many
10 times in the future, that the docket closes on the
11 31st of July.

12 One more item about commenting: If
13 somebody in front of you says eloquently exactly the
14 point you wanted to say, then to consider the time
15 that we have, I would recommend to you that you simply
16 refer to Mr. X and his eloquent comment, support it in
17 whole and then move to whatever additional comment you
18 might have. And that way we will know exactly how
19 strong the feeling is for Mr. X's comment, and also
20 you will save time in your comment and have more time
21 for whatever else you want to add.

22 Everybody ready? Here we go. If you turn
23 to the Federal Register, we have -- on each of these
24 slides, we did put the Federal Register page numbers,
25 and in the handout you have these slides, so in case

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1 you leave the room and you come back and you're a
2 little lost, we have the page numbers there so you can
3 see where we are in the Federal Register. Right now,
4 we would like you to comment on Subpart A and Subpart
5 B of Part 101.

6 In general, Subpart A discusses the
7 definitions for the entire Subchapter H on maritime
8 security. It discusses the applicability of the
9 entire subchapter, talks to incorporating by reference
10 different materials on maritime security, it talks
11 about alternatives, it has a reserve section called,
12 "Approved Alternative Security Programs," it talks
13 about equivalencies to security measures.

14 Subpart B covers maritime security levels
15 and the alignment of these requirements with the
16 Department of Homeland Security. I will now open the
17 floor to comments.

18 ADM. NORTH: Good morning. I'm Bob North,
19 representing Lloyd's Register of North America.
20 Comments with regard to first in the preamble,
21 equivalent terms, Table 4. While it's unfortunate
22 that the differences exist between Coast Guard, MTSA,
23 ISPS Code, et cetera, most are reasonably
24 transferrable. However, an exception and a difference
25 in terms between the proposed H, et cetera, and ISPS

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1 Code with regard to port facilities and their security
2 plans and the designation of the Captain of the Port
3 as the port facility security officer are particularly
4 problematic.

5 The ISPS Code uses the term, "port
6 facility security plan" to apply to a single port
7 facility as defined in SOLAS XII, Reg 2/1.9. The
8 table, Table 4, shows ISPS Code term port facility
9 security plan as the equivalent of an area or port
10 level plan under Subchapter H and indicates the ISPS
11 Code has no equivalent for a single port facility for
12 which H U.S. Coast Guard, MTSA use the single facility
13 security plan. We believe this will cause confusion
14 for ship security officers of foreign flight vessels
15 culling in the U.S.

16 Additionally, the use of the port facility
17 security officer designation for the Captain of the
18 Port seems to be an incorrect and potentially
19 confusing use of the ISPS Code meaning. In this ISPS
20 Code, port facility security officer, although the
21 port facility security officer may be designated as
22 such for one or more port facilities, we believe the
23 intent of application is to individual port
24 facilities, not to the port or area as a whole, as
25 used in this section. Thank you.

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1 CDR ENGLEBERT: Thank you.

2 MR. RUBIN: I just wanted to follow along
3 on that. I'm Mike Rubin of the Florida Ports Council.
4 Excuse my garb. My garment bag had a transportation
5 incident.

6 (Laughter.)

7 MR. RUBIN: I thought I'd start it off
8 with a roll this morning, Admiral.

9 MR. RYBICKI: Was TSA involved?

10 MR. RUBIN: It's not Steve's fault. Along
11 those same lines, in the State of Florida, we have
12 drafted port security plans, and within those ports,
13 as you all know, there are numerous facilities, as
14 defined under these interim regulations. Our concern
15 is pretty much along those same lines. You have an
16 area maritime security plan which may include more
17 than one public port, as we have then in various
18 facilities. For instance, you may have the Port of
19 Miami and Port Everglades within one area maritime
20 security plan, but there's really no in between till
21 you get to the facilities. So we're a little
22 concerned. We have drafted port facility security
23 plans. Our tenants are able to use those port
24 facility security plans to comply with our own state
25 law.

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1 And our desire is somehow within this
2 section if maybe if you could define a port or a
3 public port so that then further on in those
4 definitions maybe when you get to the facility
5 definitions in Section 105 there is a capability of
6 using a -- I hate to use the term "port", but the only
7 one I can think of a port facility security plan for
8 those various facilities that may be within a public
9 port. Hopefully that makes some kind of sense, but we
10 have more than one facility within a public port.
11 We'd like them all to be within, in the State of
12 Florida at least, within a port facility security plan
13 that then the Captain of the Port can use for his area
14 maritime security plan.

15 CDR ENGLEBERT: Okay. Thank you.

16 MR. COX: Good morning, Admiral,
17 Commander, ladies and gentlemen. Yesterday, the
18 Chamber of Shipping testified before the legislative
19 branch and we submitted our testimony, and I wanted to
20 take the opportunity today to submit the testimony to
21 the administrative branch of our government, so we'll
22 be doing so. It covers a number of issues that don't
23 fall in this introductory section but certainly would
24 be appropriate for your review. So we're putting it
25 in there, and I'm putting in a business card, is that

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1 the right thing?

2 CDR ENGLEBERT: Yes.

3 MR. COX: And I think the previous speaker
4 mentioned something about state regulation. I just
5 wanted to briefly comment on that because it was not
6 part of our testimony yesterday but it will be in
7 writing to you by July 31, and that is we are very
8 concerned with the federalism and the state coverage
9 of the issue of security. We think that there should
10 be national uniformity particularly in the sense that
11 many nations are sending ships to this nation and they
12 ought to experience one common security process.
13 We'll be commenting further. Thank you very much.

14 CDR ENGLEBERT: Thank you.

15 MR. VOLKLE: Hi. I'm Skip Volkle. I'm
16 Vice President and Legal Counsel of Maritrans
17 Operating Company. We own a fleet of oil tankers, tug
18 boats and oil barges in the coast area of the U.S. I
19 just -- following the Florida Ports Council is
20 appropriate since we are headquartered in Tampa and
21 following Mr. Cox's comments, I just wanted to be a
22 little bit more specific with respect to the
23 federalism issue. We, too, as a operator in ports
24 throughout the United States, are extremely concerned
25 about the federalism aspects of this regulation. The

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1 State of Florida in particular has concluded that as
2 long as they are more restrictive than the federal
3 requirements that is not a conflict. Therefore, they
4 are adopting regulations under Florida state law which
5 we believe to be inconsistent with the entire security
6 notion embodied in these regulations.

7 Specifically, as we read the Florida
8 statute and the Florida regulations, they will be in a
9 situation barring access to port facilities by
10 licensed and documented seamen, because a seamen who
11 has a Coast Guard license may not satisfy the state
12 background check documentation requirements. The same
13 thing applies to foreign seamen who are required, or
14 vendors, who are required to repair vessels. So we
15 would encourage the Coast Guard to strongly try and
16 come up with a uniform system throughout the United
17 States to provide security, because at the end of the
18 day while we have to have security, we have to have
19 commerce operating. And we think that these
20 regulations do have that in mind but we are really
21 concerned that the hodge-podge of state requirements,
22 particularly state requirements that believe that they
23 can be more restrictive, is going to create havoc with
24 our ability to do commerce.

25 CDR ENGLEBERT: Okay. Thank you.

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1 MS. KELLOGG: Good morning. My is Dorothy
2 Kellogg, and I'm here representing the American
3 Chemistry Council. Our members represent roughly 70
4 percent of the industrial chemical production capacity
5 in the United States, and over the last 15 years we've
6 demonstrated a commitment to environment, health and
7 safety through our responsible care program. Over the
8 last year we've expanded that program to include
9 security, including very robust requirements for
10 vulnerability assessments at chemical manufacturing
11 facilities nationwide.

12 I really have three points that I'd like
13 to raise with the Coast Guard today, and they all fall
14 under the same category of how critical it is that the
15 program that is being developed by the Coast Guard fit
16 within a uniform, comprehensive federal program of
17 infrastructure security under the Department of
18 Homeland Security. Clearly, the Coast Guard is under
19 the Homeland Security Department, and I know it's
20 being developed in this capacity, but three points
21 particularly.

22 First having to do with the scope of the
23 Coast Guard's jurisdiction. We firmly adhere to what
24 we call the one facility, one plan rule, that because
25 of the criticality of security at not only chemical

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1 facilities but other infrastructure, critical
2 infrastructure facilities, it's important that they be
3 evaluated as a whole, not in small parts. As a result
4 -- for that reason, we would recommend that the Coast
5 Guard, in collaboration with the Department of
6 Homeland Security, come up with a set of criteria, if
7 you will, and multiple methodologies for assessing all
8 chemical facilities and similar criteria for other
9 critical infrastructure sectors, such that those
10 facilities that fall within the Coast Guard's
11 jurisdiction, that is those facilities on waterways
12 with docks, that the Coast Guard's assessment would be
13 acceptable to other elements within DHS and similar
14 assessments made by other DHS entities would be
15 acceptable to the Coast Guard; that is, a sort of
16 reciprocity among DHS and federal entities with
17 respect to assessment and security planning.

18 Secondly, it's going to be important that
19 that kind of commonality of plan purpose vision, if
20 you will, also apply to the two-way communication of
21 intelligence, both from facilities up to DHS, from DHS
22 back to facilities, ports, sectors. The Coast Guard
23 has recommended using the National Response Center as
24 the reporting mechanism. We've also been directed to
25 use Joint Terrorism Task Force as well as the ISAC

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1 that we have created. This has to be coordinated.

2 I'm leaving my oral statement here as well
3 as my business card, and we look forward to a
4 continued, very positive dialogue with members of the
5 Coast Guard and DHS. Thank you.

6 MR. FROMMELT: Good morning. My name is
7 Gary Frommelt. I'm President of the Passenger Vessel
8 Association. The Passenger Vessel Association
9 represents 500 vessel and associate members that make
10 up the majority of the domestic passenger vessel
11 fleet. All of our vessel members carry a U.S. Coast
12 Guard certificate of inspection and are crewed by
13 U.S.-licensed mariners. I would like to thank the
14 Coast Guard for the initial public hearings in
15 January and also thank you for incorporating many of
16 our comments into the interim final rules. It looks
17 like most of the messages we tried to send were heard,
18 not all, which we'll talk about later.

19 PVA supports the rules provision for an
20 approved alternative security program. The temporary
21 interim rule contemplates that security plans must be
22 developed for many vessels and maritime facilities.
23 These plans must address areas, as set out in the
24 rule, and they must be submitted to the Coast Guard
25 for approval.

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1 PVA strongly supports the provisions for
2 alternative measures. The domestic passenger vessel
3 industry is diverse and with many vessel types,
4 operating environments and passenger services. PVA
5 believes that the membership is best served by
6 developing an industry standard that reflects the
7 broad diversity that we see in our membership. As a
8 result, PVA is working with the Coast Guard to gain
9 early approval for the PVA industry standards for
10 security of passenger vessels and small passenger
11 vessels.

12 A PVA Security Task Force of more than a
13 dozen members has been developing this document for
14 many months. It takes into account the wide diversity
15 of our members' vessels, service types and lessens the
16 international flavor of the current regulations. The
17 Coast Guard is familiar with the work of the PVA
18 Security Task Force. We have consulted regularly with
19 appropriate Coast Guard officials as the document has
20 evolved. We appreciate the feedback from the Coast
21 Guard on our drafts and have incorporated many of your
22 suggestions into our work.

23 The PVA industry standards for security of
24 passenger vessels and small passenger vessels will be
25 submitted to the Coast Guard for final approval within

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1 a few days, and we hope to hear that we have a final
2 approval in August. This will give our members
3 sufficient time before the December 29 deadline to use
4 the alternative industry standards, which we feel are
5 tailor made to the industry for an enhanced level of
6 security without unnecessary burdens. Thank you.

7 MR. DENO: Good morning, everyone. Stan
8 Deno, International Council of Cruise Lines, the other
9 section of the passenger vessel industry. The
10 International Council of Cruise Lines is a non-profit
11 trade association that represents the interests of 15
12 of the largest cruise lines operating in the North
13 American cruise market.

14 First, I would like to support the
15 comments of Bob North concerning the harmonization
16 between the MTSA and the ISPS Code. We believe that
17 that should have been resolved in favor of the ISPS
18 definition so that we have an international document
19 that works worldwide.

20 Additionally, and I'm not sure, Susan, if
21 this is the right place or not, but we'd like to take
22 this opportunity to support the Coast Guard's position
23 concerning individually approving vessel security
24 plans for foreign SOLAS vessels coming to the United
25 States. The maritime industry exists in an

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1 international environment, and therefore it's
2 increasingly incumbent on the United States to work
3 with the international community to develop security
4 requirements worldwide that are harmonious and allow
5 for the unimpeded flow of commerce and passengers
6 across borders. The Coast Guard must accept the
7 International Ship Security Certificate as prime facia
8 evidence that the ship's flag administration has
9 completed its obligations, and we support the Coast
10 Guard's commitments to its international obligations
11 in doing so.

12 I will leave a copy of my written comments
13 and a business card, and I'll probably see you again.

14 Thank you.

15 RADM HERETH: Stan, before you leave --

16 MR. DENO: Yes, sir.

17 RADM HERETH: -- just one -- could you
18 help us understand where you think the confusion would
19 arise in the terms? Give us a specific example, if
20 you could so we can understand it.

21 MR. DENO: Well, probably in our written
22 comments, which are submitting to the docket in
23 addition to being here today, we do mention, as
24 Admiral North mentioned, the port facility security
25 officer being the Captain of the Port in the United

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1 States, according to the MTSA, but yet everywhere else
2 in the world that's going to be whoever the port
3 facility security manager is. Where now there's
4 another layer in the United States with a facility
5 security officer. So that right there -- well, that's
6 one example. And I'm trying to think of the other one
7 off the top of my head, but that's probably the most
8 important one.

9 MR. TIMMERMAN: Good morning. I'm John
10 Timmerman. I represent Tampa Bay Shipbuilding and
11 Repair Company. My comments have to do with the
12 implementation of Florida state law as compared to
13 federal law in security. Tampa Bay Shipbuilding is
14 the largest shipyard between Mobile, Alabama and
15 Charleston, South Carolina. Tampa Bay Shipbuilding is
16 the only shipyard in this area that is required to
17 undergo the scrutiny of a Florida state law and the
18 federal state law. This creates an unfair economic
19 advantage toward Tampa Bay Shipbuilding.

20 As a result of the Florida state law,
21 double gating is going to be imposed upon our
22 facility. Our facility has already undergone seven-
23 year background checks for our shipyard helpers,
24 welders and mechanics. Our shipyard does not deal in
25 cargo, has no hazardous material in bulk, deals with

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1 no passengers, no containers, and all the vessels are
2 gas-free. We've had a 12 percent rejection rate of
3 applicants. Basically, with a double-gating standard
4 and this double standard, it may be easier to go down
5 to MacDill Air Force Base and play a game of golf than
6 it is for a welder or a shipyard helper to come to
7 work. It's a heck of an analogy.

8 There was no economic impact study done
9 prior to the implementation of the state law.
10 Currently, we've had a 15 percent rejection rate of
11 existing employees. Appeals are pending. Tampa Bay
12 Shipbuilding has hired Fishkin and Associates out of
13 Orlando, Florida to do a preliminary economic impact
14 study on business behind the gate. It was submitted,
15 the preliminary, as of 15 July. The per employee
16 expense is anywhere from \$7,000 up to \$25,000
17 depending on the business. The business related
18 expenses are expected to total somewhere around \$3.5
19 million to \$12.6 million. It is an unfair playing
20 field. Customers who are inconvenienced by double
21 gating are going to take their business elsewhere.

22 Tampa Bay Shipbuilding believes in
23 intelligent security, and we are serious about
24 security. Tampa Bay Shipbuilding the implementation
25 of federal standards over state standards. Thank you.

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1 RADM HERETH: Help us understand double
2 gating. Can you just define that for us?

3 MR. TIMMERMAN: The Port of Tampa is --
4 without a map it's hard to describe -- is securing a
5 location called Hooker's Point. It contains both
6 private as well as tenant facilities. We are a
7 tenant, unfortunately. This gate is going to be a
8 massive 12-lane complex. Everybody's going to have to
9 stop there either to get validated or they're going to
10 have to stop there and get a temporary pass to go in.

11 Not only are they going to have to do that but each
12 time that individual goes to a business that's behind
13 that gate, and I think there's 30 to 40 different
14 businesses, they're going to have to do the same
15 thing. It's an unfair burden, and it is creating an
16 economic impact.

17 RADM HERETH: Thanks.

18 MR. TIMMERMAN: Thank you.

19 MR. HAZZAN: Good morning. My name is
20 Mike Hazzan, representing AcuTech. The definitions of
21 a facility, which I'd like to read for you, say the
22 following: Means any structure or facility of any
23 kind located in, on or adjacent to any water subject
24 to the jurisdiction of the U.S. and used, operated or
25 maintained by a public or private entity, including

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1 any contiguous or adjoining property under common
2 ownership or operation.

3 Two phrases cause us concern: Adjacent to
4 any waters and adjoining property. Those definitions
5 are essentially repeated in Section 101.110 on the
6 next page. We believe these definitions are not
7 specific enough to allow, for example, a chemical
8 manufacturing or processing facility that may be
9 located miles inland and connected to a dock via
10 pipelines, for example, to determine whether these
11 regulations are applicable. And we are recommending
12 that these definitions be made much more specific.
13 Thank you.

14 RADM HERETH: One follow-up question.

15 MR. HAZZAN: Yes, sir.

16 RADM HERETH: What is the -- give us an
17 example of the longest distance that you can think of
18 that a facility might be connected to the waterway by
19 just a pipeline?

20 MR. HAZZAN: Admiral, I have seen several
21 facilities, been in several facilities that are tens
22 of miles away and connected to a dock by a pipeline,
23 and that might be interpreted as being adjacent or
24 contiguous because the pipeline exists.

25 MS. MORGAN: Good morning. My name is

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1 Fiona Morgan from the National Marine Charter
2 Association. NMCA appreciates this opportunity to
3 testify on the impact of the U.S. Coast Guard's
4 recently released interim final regulations on port
5 security. I plan on quickly just covering a couple of
6 points from the comments that NMCA has submitted and
7 also testified upon yesterday before the Coast Guard
8 and Marine Transportation Committee.

9 The National Marine Charter Association's
10 membership is made up of a range of companies
11 providing small passenger vessel and charter services,
12 including sport fishing, sailing, diving, bareboat,
13 water taxis and other small sightseeing vessels.
14 While the individual operations are, for the most
15 part, small, their impact on the local tourism economy
16 is significant for local restaurants and hotels as
17 well as the national airline and car rental
18 industries. It is thus that we -- within this context
19 that NMCA provides the following couple of points.

20 NMCA believes that the Coast Guard should
21 enumerate in the final regulations the specific
22 categories and thresholds of exempt vessels conforming
23 to the usual regulatory categories, such as Subchapter
24 C or T, as they have done in just about every other
25 rulemaking. We believe that enhancing maritime

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1 security is greatly needed, but there are alternatives
2 to increased regulation to achieve that goal. The
3 charter industry has a ubiquitous presence on
4 virtually waterway in the United States with tens of
5 thousands of vessels operated by seasoned professional
6 captains who have a deep understanding of their local
7 maritime domain.

8 For the years there has been the need for
9 a formal industry Coast Guard partnership as the small
10 passenger and charter vessels have faced additional
11 regulation. The need for increased maritime security
12 presents a unique opportunity to finally create a
13 prevention-through-people partnership between the
14 small passenger and charter vessel industry and the
15 U.S. Coast Guard. Thank you.

16 MR. KILEY: Good morning. My name is Ned
17 Kiley. I represent the Washington State Ferries. As
18 a matter of introduction, the Washington State Ferries
19 has been historically, and is today, an extension of
20 the state highway system, acting as a marine highway
21 for vehicles driven by commuters, commercial users and
22 tourists and as a transit provider for thousands of
23 daily walk-on customers. According to Ship Facts
24 Information of Sweden, Washington State Ferries ranks
25 as the third largest ferry system in the world when it

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1 comes to passenger carriage, and it ranks first in the
2 world when it comes to the annual number of vehicles
3 carried.

4 Washington State Ferries is a key factor
5 in the growth and the population and economy of the
6 western side of the Puget Sound region. Business
7 communities, the region and their respective work
8 forces depend upon Washington State Ferries' cross-
9 sound transportation capacity.

10 If a security plan causes significant
11 reduction of service, negative impact on the economy
12 and a transportation system failure, then the plan
13 will have failed and those who wish to do us harm will
14 have succeeded. For security to succeed, a security
15 plan must balance security needs and operational needs
16 as well as balance real threats with appropriate
17 security measures. This will require a constant open
18 dialogue with the Coast Guard at the national and
19 local level, at the unclass and the classified level
20 as well. Washington State Ferries' primary goal is to
21 submit an approved security plan that is both
22 operationally and financially sound.

23 Finally, to comment on cost funding
24 implications, the Federal Register of the Coast Guard
25 commented that the disparity between funding available

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1 between the transportation modes is outside the scope
2 of this rulemaking. Further, the Coast Guard
3 indicated rulemaking was exempt from the Unfunded
4 Mandates Reform Act of 1995 due to national security
5 implications. The fact is that the cost of
6 implementing security remains and is significant.
7 Disparity between federal funding dedicated to air
8 transportation and maritime transportation can be
9 considered a -- viewed as a direct definitive policy
10 statement, assigning greater risk to air
11 transportation. The federal government believes there
12 is real maritime security risk that needs to assist
13 with the funding of security measures at a level
14 commensurate with the relative risk between modes.

15 (END TAPE 1, SIDE A)

16 (BEGIN TAPE 1, SIDE B)

17 CDR ENGLEBERT: -- and Subpart B of Part
18 101. Thank you.

19 CAPT. ZALES: Good morning. My name is
20 Bob Zales, II. I am the Chairman of the National
21 Association of Charterboat Operators, NACO. We are
22 the voice for over 3,300 charterboat owners and
23 operators in the United States. I would like to point
24 out, and I'm sure you are all aware, that NACO stepped
25 forward early on after 9-11, and due to the efforts of

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1 Rear Admiral Pluta and our Vice Chairman Ed O'Brien,
2 we have a Memorandum of Agreement with the Coast Guard
3 that clearly sets out the criteria to have our people
4 be kind of the eyes and ears on the water as we
5 contend that we are probably amongst the best people
6 to do that because we go to and from the same location
7 practically every day.

8 We fully support your efforts to do what
9 we can do for homeland security, and we support most
10 of everything that's been said here today. On this
11 particular issue, we would encourage you to at least
12 keep this rulemaking for facilities and what not as
13 broad as possible. In the vast majority of cases,
14 these regulations will have little effect on our
15 members, but in some cases our members will be
16 affected, and we hope that these measures will be
17 broad enough to allow some form of exemption or
18 whatever's necessary to reduce the burden on our
19 fleets.

20 NACO has identified over 16,000 charter
21 fishing vessels in the United States. All of us from
22 our board to our management company are seasoned
23 professionals in the charter business. We feel like
24 that we can perform a great function to assist the
25 government in homeland security and encourage you,

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1 like I said before, just to try to keep common sense
2 and broadness in these regulations. Thank you.

3 CDR ENGLEBERT: Okay.

4 MS. BRANDT: Good morning. I'm Amy Brandt
5 from the American Waterways Operators. We represent
6 the inland and coastal tugboat, towboat and barge
7 industry, and just like to start off our comments
8 today with two specific points about the definition
9 section. First, we urge the Coast Guard to clarify
10 the definition of certain dangerous cargoes. Right
11 now, towing companies that are subject to the security
12 interim rules report information on their CDC barges
13 as part of the Notice of Arrival Rule, Final Rule 33
14 CFR Part 160, and the 8th and 9th District RNAs. And
15 these rules all have different definitions of certain
16 dangerous cargoes. We urge the Coast Guard to use the
17 definition of CDCs in the Notice of Arrival Rule.
18 That's 33 CFR 160.204. This would help barge
19 operators know what cargoes they had to report and
20 were affected by the security interim rules. It would
21 also be helpful if the Coast Guard published a list of
22 the CDC cargoes by name rather than just the CFR
23 references that we have right now.

24 A second point, the Coast Guard needs to
25 clarify its use of the term, "vessel-to-vessel

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1 interface." The definition section provides a
2 definition of vessel-to-vessel activity, although that
3 term is not used in the vessel security interim rule.

4 The Coast Guard should also consider in its
5 definitions of vessel interfaces, vessel-to-vessel
6 interface, vessel-to-port interface, using the term,
7 "cargo," instead of "goods" or "provisions," because
8 there is a definition for cargo in the Section 101.105
9 but there's not a definition of goods or provisions.
10 Thank you.

11 MR. HAYDEN: Good morning. Channing
12 Hayden with the Steamship Association of Louisiana.
13 Two comments. In the definitions, a VSO is defined as
14 the person aboard the vessel who is accountable to the
15 master for security aboard the vessel. We'd like the
16 Coast Guard to clarify whether or not this means the
17 master cannot be the VSO. There are a lot of people
18 who would like the master to be the VSO. Based on
19 that definition, it appears as if he cannot be or she
20 cannot be the VSO. We'd like clarification on that.

21 Secondly, I believe under Subpart B we
22 have the procedure for the commandant issuing the
23 MARSEC directives. We've looked at that and that
24 seems to be an extremely cumbersome procedure. As we
25 understand it, the commandant will issue a MARSEC

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1 directive, that will be published in the Federal
2 Register, but only those parties with a need to know
3 get to find out what the directive is. Well, that's
4 sort of like a Catch-22 because you don't know whether
5 you need to know it until you know what the directive
6 is. So it seems like everybody's going to be calling
7 up saying, "By the way, are we subject to this
8 directive?" This seems to be putting a lot of stress
9 on the Coast Guard's communications abilities, so we
10 would recommend that there would be at least some way
11 that the Coast Guard would communicate who are the
12 people that need to know this. Does this apply
13 foreign vessels carrying certain dangerous cargoes?
14 Some way to pinpoint this a little bit better so that
15 there is not -- every time a directive is issued
16 there's not a big hue and cry from everybody that
17 could possibly be affected by the directive to find
18 out what it is. Thank you.

19 MS. CARPENTER: Good morning. I'm
20 Jennifer Carpenter from the American Waterways
21 Operators. My colleague, Amy Brandt, addressed our
22 comments on Subpart A. I'll speak briefly to Subpart
23 B, specifically, the coordination of MARSEC levels
24 with the Homeland Security Advisory System. While we
25 believe in concept that that's a good thing, we do

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1 want to encourage the Coast Guard to retain the
2 flexibility to tailor MARSEC directives to specific
3 regions, ports or operating sectors of the maritime
4 industry. We think this is very important given the
5 diversity of the industry. Rather than going to, say,
6 MARSEC 2 throughout the country because the HSAS
7 system has been raised from yellow to orange, the
8 Coast Guard ought to be able to target which specific
9 ports or which specific sectors need to be raised and
10 also lowered. Thank you.

11 MR. POLITTE: Eric Politte, Response
12 Management Associates. Just want to follow up
13 supporting comment in earlier docket regarding the
14 definition of facilities. There is, I agree, some
15 confusion and need for clarification on the lack of
16 specific information as to facilities that are
17 adjacent or adjoining. I also want to add to that in
18 the definition, the definition says, "in, on or
19 under," and we'd like to see clarification if that is
20 intended to include pipelines which cross under major
21 waterways in the captain of port zones. Thank you.

22 MR. SPACKMAN: Good morning. Alan
23 Spackman, International Association of Drilling
24 Contractors. I'd like to second Mr. Hayden's remarks
25 regarding the MARSEC directives. The process for

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1 distribution is extremely cumbersome and we believe
2 unworkable as with respect to offshore facilities or
3 offshore support vessels where the shore base may be
4 outside the Captain of the Port zone, which the
5 vessels operate. The ability to get to the Captain of
6 the Port office or the district commander's office to
7 receive those would have to be delegated to some
8 agents who act on behalf of the owner-operator, and
9 it's not clear under the regulations whether that
10 would be authorized.

11 Secondly, an issue that is addressed in
12 the preamble but not in the rule itself regarding the
13 continuous synopsis record, we are wishing that the
14 Coast Guard would articulate how the CSR is going to
15 be provided to those vessels which may be subject to
16 port state control outside the United States where
17 they will be looking for one document, not a
18 combination of the Certificate of Documentation and a
19 Certificate of Inspection. Thank you.

20 RADM HERETH: Al, could -- I'm sorry,
21 could you go over that last point just to make sure we
22 understand it?

23 MR. SPACKMAN: Well, clearly, IMO is
24 looking -- IMO members are largely looking for a
25 single document called a continuous synopsis record,

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1 not two records: one, on a Certificate of Inspection,
2 which would have to contain more information than it
3 already does, and the Certificate of Documentation,
4 which would also have to be amended to include
5 information on previous owners, previous bareboat
6 charterers, et cetera. The COI and COD just aren't
7 going to cut it for port state control overseas.

8 MR. DENO: Hi. Stan Deno, International
9 Council of Cruise Lines again. I would like to second
10 and third, I guess, Mr. Hayden's and Mr. Spackman's
11 comments on the maritime security directive
12 distribution system. In fact, Mr. Hayden used the
13 exact same word we used in our written comments and
14 that was, "cumbersome." So I'd like to fully support
15 that.

16 Also, since we're in the right page group,
17 I'd like to comment on a definition and that is the
18 dangerous substances or devices. ICCL was at IMO and
19 we recalled a discussion concerning these terms and
20 that the intent at IMO was to have those defined at
21 the administrative level or each country. However,
22 the realities of screening capability lead us to
23 question the broad definition as found in this IR.

24 As it's written, and to quote it exactly,
25 it says that it includes, "if it's unlawful to possess

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1 under applicable federal, state or local law." The
2 way we read that, that could include illegal drugs,
3 plants or in the Miami area cuban cigars. I don't
4 think we have the screening technology available to
5 detect those types of items, and although we do want
6 to keep illegal drugs off of our ships and on our
7 traveling public, it's an unworkable definition if
8 someone wants to enforce it to the letter of the
9 definition. And I recommend that that definition be
10 typed up. Thank you. Yes, sir?

11 RADM HERETH: Will you be coming forward
12 with any specific recommendations?

13 MR. DENO: We could, sir. We could submit
14 some words. Our written comments are probably being
15 submitted electronically as I speak, but we can submit
16 a second comment with some suggested words, certainly.

17 MR. SHEEHAN: Good morning. Dan Sheehan
18 representing International Registries. We have a
19 fleet of 479 large vessels, many of which trade here
20 in the United States. We are also concerned about the
21 marine security directive process. We, too, find it a
22 cumbersome process and believe that there needs to be
23 a way and a manner for the ship master to be made
24 aware of things that he or she has to comply with at
25 the same time. So we would just reecho and reinforce

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1 those comments. Thank you.

2 CDR ENGLEBERT: Okay. In our experience,
3 the first slide is always the longest. Now we're
4 going to move to Subpart C and D, which includes
5 several things that have already been discussed.
6 Subpart C talks to communication -- this is all in
7 Part 101 still. Subpart C talks to communication,
8 reporting. Subpart D talks about control measures,
9 such as enforcement, maritime security directives,
10 control and compliance measures, penalties and rights
11 to appeal. I will now open the floor for those
12 comments. Thank you.

13 ADM. NORTH: Good morning again. Bob
14 North, Lloyd's Register of North America. Clear,
15 efficient and effective operational communications
16 between the industry and the Coast Guard are going to
17 be essential if all this maritime security regime will
18 work smoothly and a higher state of security
19 prevention, preparedness and response created.
20 Perhaps the most problematic communications will be
21 with foreign vessels arriving from sea. Specifically,
22 with regard to Subsection 101.300(a), Notification of
23 MARSEC Level Change, none of the means of
24 communication specified may be viable for vessels en
25 route to a port that are still at sea. Those vessels

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1 may be beyond broadcast notice to mariners' range, and
2 they may not have access to the Federal Register in
3 which the maritime security directive notice is
4 published or ready access to the Captain of the Port,
5 particularly if they call in the U.S. infrequently.

6 The addition of Navtechs, or vessel long-
7 range tracking systems or vessel agent or CSO
8 notifications through e-mail, fax or other means and
9 other communications media, may provide more likely
10 notification to those vessels. It's also noted that
11 under 105.230(b)(1) facility owners and operators have
12 a responsibility to ensure that vessels going to the
13 facilities or scheduled to arrive within 96 hours of
14 a scheduled MARSEC level change be notified of that
15 change. That provision could be added to 101.300(a)
16 as another means of communication or notification.

17 With regard to maritime security
18 directives, I would echo those comments already made
19 by numerous speakers. I'd also add that it's not
20 clear whether those directives will apply nationally
21 or only to limited areas such as districts or Captain
22 of the Port zones. Additionally, anyone desiring to
23 obtain a directive will have to obtain an SSI
24 clearance, as we read the rules. And as we understand
25 it, those clearances are provided on a port-by-port

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1 basis with everyone with a need to know having to
2 obtain a clearance from each Captain of the Port with
3 whom they need to obtain a directive or otherwise
4 access SSI information. This could result in a very
5 time-consuming process, duplicative process for
6 industry as well as the Coast Guard.

7 The process should be streamlined to allow
8 an SSI once granted by a Captain of the Port to be
9 recognized by other captains of the port by reference
10 to a central database or other means. Once directives
11 have been issued, vessels culling in the U.S. for the
12 first time or after some lapse of time will need
13 access to all applicable directives in force. The
14 process needs to be defined to permit that. Thank
15 you.

16 RADM HERETH: Admiral?

17 ADM. NORTH: Yes.

18 RADM HERETH: You referenced a couple of
19 sites there: 101.300(a) and what was the second site?

20 ADM. NORTH: Well, 105.230(b)(1), which is
21 the reference for facilities.

22 RADM HERETH: Understand. Thanks.

23 MR. VOLKLE: Hello again. Skip Volkle
24 from Maritrans. A couple of quick comments. One, if
25 I could start with Subpart D, the control measures for

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1 security. This is an overarching comment. We had a
2 recent spill drill involving a scenario that involved
3 a terrorist attack on two oil tankers loitering off
4 the coast of Delaware, and what became very apparent
5 as a result of that was, number one, the absolute
6 confusion of federal jurisdiction in responding to
7 security incidents and enforcing security
8 requirements. As the Coast Guard attempted to respond
9 to the safety and environmental issues, the FBI came
10 in and said, "Oh, by the way, we're in charge. You
11 can't respond, you can't go on the vessel." It was,
12 to put it bluntly, a mess.

13 The other thing is perhaps is unusual for
14 someone from private industry to come and say the
15 Coast Guard doesn't have enough authority to regulate,
16 but another thing that came out of that was we had an
17 incident -- again, the scenario was an incident
18 offshore, we said, "Well, you'd better establish a
19 security zone or safety zone around these oil tankers
20 in case somebody else wants to attack." And the Coast
21 Guard's response was, "Well, beyond three miles we
22 have no authority to establish any kind of security
23 zone or safety zone." And as a former Coast Guard
24 legal advisory, I disagree with them, but nevertheless
25 it does appear that there is a shortfall in Coast

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1 Guard legal authority as we go beyond three or 12
2 miles, and some statutory amendments may be required.

3 The other thing, going to Subpart C,
4 communications, again, an example that we had, we had
5 received a threat several months ago by what we
6 actually believed to be some drunk and disgruntled
7 former employee, but a phone message left on a voice
8 mail. We immediately called the FBI, we called the
9 Coast Guard Captain of the Port, we called the
10 National Response Center, and what happened at that
11 point was the Captain of the Port started to
12 appropriately step up security in the port and do some
13 escorts. The problem was that when we was escorting
14 one of our competitor's vessels and asked why are you
15 doing escorts, he says, "Well, those guys had a report
16 of a threat," at which point everybody in the
17 industry, our customers are calling us and whatever.

18 The requirements with respect to
19 communications and what the Captain of the Port has to
20 do has to be very carefully treated so that you don't
21 identify specific companies that create both
22 securities issues under the Securities and Exchange
23 Act and/or competitive problems. So the Coast Guard
24 really has to treat this security information much
25 more carefully in the future. Thank you.

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1 MS. CARPENTER: Jennifer Carpenter from
2 the American Waterways Operators. Two points on
3 Subpart C, communication. The first just to
4 underscore a point made by AWO and 13 other maritime
5 trade associations in a letter sent to the Coast Guard
6 a couple of weeks ago, emphasized in our statement to
7 the Coast Guard and Maritime Transportation
8 Subcommittee yesterday, and that is the criticality of
9 a timely and efficient system for communicating
10 changes in MARSEC levels to the maritime industry.
11 It's something that the Coast Guard and industry have
12 struggled with over the last 18 months. Now that
13 we've got a regulatory requirement to tie our security
14 measures to those levels, it's imperative that we get
15 a good system in place right away.

16 The second more specific point concerns
17 the requirement in Section 101.300(c), preparedness
18 communications requiring vessel operators to confirm
19 with the Captain of the Port the security measures
20 that they've instituted in response to a change in the
21 MARSEC level. Given that a towing vessel might move
22 through multiple COTP zones in the course of the day,
23 it could become extremely burdensome and redundant to
24 confirm security measures with multiple COTPs. We
25 would urge that this requirement apply only in the

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1 zone in which the vessel was operating when the change
2 in MARSEC level was announced. Thank you.

3 MR. HAYDEN: Channing Hayden, Steamship
4 Association of Louisiana. Following up with the last
5 speaker, the requirement to notify the Captain of the
6 Port that you are in compliance with all of the
7 requirements of the increased MARSEC level, while we
8 understand where the Coast Guard is coming from with
9 this regulation, this is going to put a tremendous
10 burden on your communication systems for the Captain
11 of the Port. The other day when I was reading through
12 the regulations, we found we had 64 deep-draft vessels
13 in port in the New Orleans Captain of the Port
14 district. Doesn't count all the towing vessels,
15 doesn't count all the barges, doesn't count all the
16 facilities, doesn't count all the offshore vessels, et
17 cetera. If all those calls have to be made to the
18 Captain of the Port, it's going to extremely stress
19 the communications ability of the MSO. The other
20 question is how do we do this? There's no guidance on
21 whether we do this by telephone, by e-mail, by faxes,
22 by what means of communications do we use? So I'd
23 like to stress those two points.

24 I'd like to take a second and go back on
25 something I missed and stress that I support the

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1 gentleman who said that we need consistent regulations
2 nationwide. We've got to have one set of regulations
3 by Captain of the Port district and by state and by
4 port. Your regulations have to be the real deal and
5 that's it. Thank you.

6 CAPT. ZALES: Bob Zales, II, Chairman of
7 the National Association of Charterboat Operators once
8 again. Communications -- and this has to do not only
9 amongst those of us you're trying to communicate with
10 but also within the various agencies of the
11 government. Currently, Commerce-NOAA-Fisheries, they
12 have existing regulations for some fisheries requiring
13 VMS, Vessel Monitoring Systems. We would argue that
14 to require a vessel that is already having to comply
15 with a VMS very costly piece of equipment to also
16 install an AI system that basically is going to do the
17 same -- serve the same purpose, that you should get
18 coordinated between the agencies that deal with
19 vessels other than the Coast Guard to do this.
20 Currently, there is discussion within NOAA-Fisheries
21 that we know of that they're looking at expanding VMS,
22 not only to the commercial vessels and other fisheries
23 where they're not but also to other vessels and
24 fisheries that they regulate. So we would encourage
25 you to have discussions with them to eliminate the

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1 redundancy and the overburdenly cost that it would
2 cost some of these vessels. Thank you.

3 MR. HUDGINS: Good morning. My name is
4 Hal Hudgins. I'm with the Alabama State Port
5 Authority, and I presented testimony to the House
6 Transportation and Infrastructure Committee yesterday
7 on behalf of the Authority and the American
8 Association of Port Authorities, and we'll deliver
9 that testimony to the docket.

10 One question that we raised that we would
11 like to bring to your attention this morning,
12 according to the regulations, any person who does not
13 comply with the regulations will be liable for civil
14 penalty. In the facility regulations, the owner or
15 the operator is responsible for ensuring the facility
16 meets the regulations. At many ports, especially
17 landlord ports, there is a great deal of difference
18 between the owner and the operator. We would seek
19 clarification on which entity would be ultimately
20 responsible for ensuring that each facility in the
21 port is in compliance and who will be penalized if the
22 Coast Guard determines that they are not in
23 compliance. Thank you.

24 CAPT. CHOPRA: Good morning. My name is
25 Anuj Chopra representing Anglo-Eastern Ship

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1 Management. We would like to agree with the comments
2 of the Admiral North, especially on the communications
3 sections to vessels, to foreign flag vessels. We have
4 at any time over 50 vessels trading to the U.S.

5 Secondly, on the SSI approval process for
6 each Captain of the Port, to get individual approvals
7 would be a monumental task, to say the least.

8 The third question is regarding the
9 transfer of information or transfer of MARSEC levels,
10 especially when we are talking about vessels working
11 cost-wise. How is the master touching five boats on
12 the coast going to change his security level onboard,
13 and won't this produce confusion for the crew where
14 they would be calling the U.S. as just another country
15 on the worldwide train. We'd like you to request for
16 some uniformity so that it's easier to implement for
17 the ship's crew. Thank you.

18 MR. DENO: Good morning again. Stan Deno,
19 International Council of Cruise Lines. I'd like to
20 again fully support the comments previously made on
21 the maritime security directive and add a further
22 comment that ICC has a little -- although we support
23 the concept in theory, we're a little concerned on the
24 authority to issue a MARSEC directive. It states in
25 101.405(a)(1) that only the commandant or his or her

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1 delegee may issue a maritime security directive.
2 We're a little confused as to how far down does that
3 delegation go. In as much as the maritime security
4 directives are intended to be an extension of
5 regulation and thus regulation in themselves, we
6 believe this authority must be retained at the
7 commandant level.

8 And also we'd like to comment that it says
9 that the commandant will consult with federal agencies
10 having an interest in the subject matter before
11 issuing the directive. In as much as many industry
12 representatives have appropriate security clearances
13 or can discuss information at the SSI level, we
14 believe that the affected industry or segment of the
15 maritime industry should also be consulted in
16 developing these directives. ICCL having had security
17 plans for many years has worked very closely with the
18 Coast Guard over those years to develop systems that
19 will or will not work onboard our passenger ships.
20 And being able to discuss them ahead of time has kept
21 us from getting directives or Captain of the Port
22 orders or even further regulations that are completely
23 unworkable on our vessels and therefore of absolutely
24 no value. Thank you.

25 MR. GORMANSON: Good morning, Admiral,

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1 gentlemen, ladies. My name is Jim Gormanson. I am
2 the Compliance Manager for Noble Drilling Service,
3 Inc. in Sugar Land, Texas. My comment is regards to
4 the notification and reporting requirements in Subpart
5 C. Notification for offshore -- you know, for the
6 outer continental shelf activities should be directed
7 to the 8th District commander to the Captain of the
8 Port, because the Captain of the Port's jurisdiction
9 does not extend beyond the territorial waters of the
10 United States. And we're operating outside that area,
11 so that authority in reporting and notification should
12 go directly to the 8th District. Thank you very much.

13 CAPT. PAVAR: Good morning. My name is
14 Claus Pavar. I represent a Danish company, Lauritzen.

15 We have a number of vessels culled in U.S. ports, and
16 we have heard some rumors in Europe that it was
17 necessary to submit the vessel security plans for
18 approval to U.S. Coast Guard before 1st January 2004.

19 And, honestly, I find that hard to believe and it was
20 sort of relief to read the maritime security rules
21 here published July 1, because that was quite clear
22 for me of what we have to do there. But then again I
23 also understand that the final rules are only ready in
24 November. Therefore, we comment that foreign vessels
25 from nations signatory to SOLAS and required to comply

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1 with SOLAS and the ISPS Code are not required to
2 submit the ship security plans to Coast Guard for
3 approval. Also, we would recommend that the Coast
4 Guard will perform an aggressive port state control
5 after the international deadline of 1st July next
6 year. Thank you.

7 CAPT. PAGE: Good morning. Ed Page from
8 the Maritime Information Service of North America and
9 the Marine Exchange of Alaska. Enjoying the heat
10 here, of course. I just want to comment on
11 dissemination of broker information with respect to
12 MARSEC levels and some consideration of the mechanism
13 that's been in place for well over 100 years through
14 the Marine Exchange Network that has served as trusted
15 agents, honest brokers in disseminating a plethora of
16 information on maritime shipping to aid safety,
17 security, efficiency and environmental protection.

18 And that when we talk about this daunting
19 task of getting this word out to the maritime
20 community, that the marine exchanges stand ready in a
21 shared commitment role to help in that end and I think
22 should be probably addressed or recognized in the
23 regulations as far as one of the mechanisms and the
24 processes that can be used by the Coast Guard to get
25 the information out to the maritime community, which

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1 we have literally thousands of maritime entities that
2 we dialogue with and interface with every single day
3 around the country, from New York and L.A. and Alaska
4 and the east coast, west coast through out our 12
5 members right now. So just a matter when we discuss
6 this brokering information and MARSEC levels, that's
7 one of the mechanisms as well as some of the others I
8 mentioned earlier that I urge you to consider and
9 address within these regulations. Here's my business
10 card.

11 MR. ANTAL: Good morning. I'm Jim Antal,
12 from the Port of Tacoma. Subpart C talks about
13 communications and requires facility security plan
14 holders to report suspicious activities to the NRC.
15 The reporting of suspicious activities that may result
16 in a transportation security incident is unrealistic.

17 In other words, the Captain of the Port or the
18 district should receive suspicious activity reports
19 but to do this every time that you have a potential
20 transportation security incident versus actually
21 having one I think is unrealistic. You're not going
22 to get that kind of reporting in what is suspicious at
23 the national, and to send it to the National Response
24 Center is kind of unrealistic. And I think that
25 should be relegated to the Captain of the Port and the

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1 district level, and by exception suspicious activity
2 that may result in an incident should be reported to
3 the NRC. Thank you.

4 MR. LONDYNSKY: Good morning. Paul
5 Londynsky from Matson Navigation Company. We have
6 taken the opportunity whenever possible to speak on
7 the issue of communication, and we're pleased to see
8 in the final interim rule the inclusion of a lot of
9 that information in the rule. However, under Section
10 101.405 referring to the maritime security directive
11 system, we're concerned about in this era of
12 instantaneous communications that the idea of
13 publishing something in the Federal Register and then
14 having a -- you know, requiring a company to go and
15 receive that information from someone else, I think is
16 going to result in a delay of being able to implement
17 the requirements in a timely manner. And we think
18 that should certainly be looked at again and perhaps a
19 more effective way, perhaps using some sort of e-mail
20 system or other method used to more quickly and
21 effectively communicate those changes. Thank you.

22 MR. ROEBER: Good morning. I'm Jim Roeber
23 from the United States Power Squadrons. I'm here
24 concerned about the interests of the 70 million
25 recreational boaters in America. Our members who are

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1 also the eyes and ears of security in the harbors.
2 The gentleman of the charterboat operators mentioned
3 that they serve that role and so do our members.

4 Under 101.305 Part A, the notification, I
5 guess we fall in the category of any other person. If
6 we see an incident occurring, whether it's in Tacoma,
7 like was mentioned, or Seattle or Baltimore or
8 whatever, it may not be a national level but it
9 certainly may be a local immediate emergency, and
10 we're told to call the National Response Center. I
11 would recommend that you include specifically that use
12 of VHF Channel 16 is a very viable way of reporting
13 an immediate security threat or incident potential in
14 a local area, because a lot of the small boats have
15 that. They don't have the telephone capability even
16 with cell phones turned off. So, okay. Thank you
17 very much.

18 CDR ENGLEBERT: Thank you. And we move on
19 to Subpart E, other provisions, still in Part 101 and
20 102. Other provisions in Subpart E include a reserve
21 section for procedures authorizing recognized security
22 organizations, the declaration of security section,
23 101.505, the requirements for assessment tools and the
24 requirements for personal identification. This is all
25 included in Subpart E. Also, Part 102 we will accept

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1 comments on Part 102, which is a reserved section,
2 titled, "National Maritime Transportation Security."
3 The floor is now open on these sections.

4 MR. HAZZAN: Mike Hazzan of AcuTech again.

5 Section 101.510 uses a term that's not defined, risk
6 assessment. We're assuming the Coast Guard means
7 vessel security assessment or facility security
8 assessment. With that assumption, then the next
9 sentence says, "These tools include," and goes on to
10 describe five Coast Guard or TSA assessment
11 methodologies or techniques. That sentence, "These
12 tools include," doesn't say but are not limited to, so
13 there's an inference that only those five are
14 acceptable.

15 We ask that the Coast Guard review those
16 assessment methodologies developed over the -- and
17 used extensively over the last 12 months or so by
18 private industry, particularly those in the chemical
19 and process industry and the organizations that
20 represent that industry. Review them and list those
21 in the regulation that they find acceptable or at the
22 very least include language which allows some sort of
23 equivalency determination to be made either by the
24 Captain of the Port or Coast Guard headquarters or
25 some other agency of private industry security

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1 vulnerability assessment methods. Thank you.

2 RADM HERETH: Can you just comment about
3 whether any of those assessment methodologies have the
4 status of some kind of industry standard or acceptable
5 national organizational support?

6 MR. HAZZAN: None of those methodologies,
7 to my knowledge, and I helped develop one of them,
8 were developed with a standard published by anybody.
9 However, they were developed by organizations that are
10 in the business of developing these kinds of
11 analytical techniques, and that kind of history goes
12 back a long way. For example, the American Institute
13 of Chemical Engineers, the American Petroleum
14 Institute and others, I'm just mentioning a few, know
15 how to do this kind of business and have been doing it
16 for years. Did that answer your question, sir?

17 RADM HERETH: Yes.

18 MR. HAZZAN: Thank you.

19 MR. ANTAL: Good morning. Jim Antal, Port
20 of Tacoma. I just want to comment on the current
21 practices of using different risk assessment tools for
22 different governmental organizations. I think one of
23 the earlier comments was from the chemical industry,
24 which I support, is that there's got to be some
25 reciprocity, there's got to be some talking between

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1 different government agencies so if we use one risk
2 assessment tool, it can be used for another different
3 governmental agency. Example, Office of Domestic
4 Preparedness has a risk assessment tool they use which
5 is different from TSAs. Question, do we have to keep
6 using different tools because we're dealing with
7 different governmental organizations or can we somehow
8 have some reciprocity there. I think that needs to be
9 looked at. Thank you.

10 CAPT. PAGE: Ed Page from the Maritime
11 Information Service North America again. Trying to
12 catch up with Stan Deno. With respect to issue on
13 recognized security organizations, I was disappointed
14 to see there was no comment or you reserved comment on
15 that issue. Many of my colleagues in the marina
16 industry some are concerned about the daunting task of
17 coming into compliance with this large number of
18 regulations, what have you, and that perhaps the Coast
19 Guard may be overwhelmed to do that, which would lead
20 to delays and allowing vessels to be processed or
21 cleared into our ports.

22 To that end, certainly some of that work
23 can be delegated with the supervision, of course, of
24 the Coast Guard naturally, to recognize security
25 organizations that can help again get us into or

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1 validating the compliance with a new regulation you
2 come up and thereby increasing maritime security. So
3 I suggest that I know IMO has addressed that issue and
4 made provision for it, of course not mandated, but
5 made provision for that, recognizing that it is going
6 to be a daunting task to do all this work that may not
7 be able to be completed efficiently or timely by the
8 existing Coast Guard and other agencies. To that end,
9 I would urge that would be addressed in some provision
10 for recognized security organizations. Thank you.

11 CAPT. CHOPRA: Good morning again. This
12 is specific reference to the personal identification
13 issue. I'd like to highlight here that for foreign
14 seafarers most of them work on contracts, hence there
15 is a problem for the company to issue them permanent
16 company IDs. We appreciate that you have included in
17 101.515.2 where you said union IDs or trade
18 association identifications would be acceptable. We
19 appreciate that, and that's the way, I guess, all or
20 most of the foreign seafarers would be going. Thank
21 you.

22 CDR ENGLEBERT: Okay. Thank you. We're
23 going to move on. This is a little them. Oh, wait,
24 we're going to have one more comment on this part.

25 CAPT. LANTEIGNE: Good morning, Admiral,

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1 ladies and gentlemen of the panel. My name is Reg
2 Lanteigne. I represent the Canadian Shipowners based
3 in Ottawa, Canada. Our members consist of about 90
4 percent of the Canadian freight ship trading on the
5 Great Lakes, on the coast and international.

6 With your permission -- that's why I'm
7 last here -- with your permission I would like to go
8 back to Part 101 Subpart A and more specifically the
9 definition of "international voyage" found on Page
10 39280. We notice that your definition of
11 international voyage include voyages made solely made
12 ship that navigates the St. Lawrence River and the
13 Great Lakes. We also know that since 1948 these
14 waters have been exempted from SOLAS provision since
15 the first SOLAS convention in 1948. Making these
16 voyage, which are voyage defined as international
17 voyage, means that all the American flag ships trading
18 inland and obviously all the Canadian flag ships
19 trading inland will be captured by the SOLAS security
20 requirements and the ISPS Code. What it also means is
21 that we will not be able to benefit from the
22 alternative security measures that are recognized in
23 the ISPS Code and recognized in these rules.

24 We have submitted comments to that effect
25 in the docket already in the last few days and wish to

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1 reinforce our concern with this. More so since
2 nowhere in the docket the logic of this decision is
3 explained. So thank you for the time. And we will
4 submit -- we have comments submitted in the box here.

5 Thanks.

6 CDR ENGLEBERT: Thank you. We'll move
7 forward. We're now going to open the floor for
8 discussion on Part 103, Area Maritime Security. I'd
9 like you to limit your comments at this time to
10 Subpart A, Subpart B and Subpart C. Subpart A is the
11 general requirements. It includes the applicability
12 of this section and the definitions for this
13 particular section. Subpart B covers the designation
14 of the federal maritime security coordinator, the
15 authority of the Captain of the Port as the federal
16 maritime security coordinator. And Subpart C covers
17 the Area Maritime Security Committee. This Subpart
18 discusses the Committee, its composition and its
19 responsibilities. The floor is open for this
20 discussion.

21 ADM. NORTH: Good morning again. Bob
22 North, Lloyd's Register North America. Section
23 103.300, Area Maritime Security Committee,
24 specifically 103.300(b), specifies that the AMS
25 operates under a written charter but it's not

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1 specified who the chartering entity is.

2 Second, with regard to the area maritime
3 security plan, the plan as described in the
4 regulations will contain information impacting ship
5 operations that company security officers and ship
6 security officers should know in order for ships in
7 their security plans to fully complement AMS plans,
8 which are SSI protected. A provision should be made
9 for reasonable access by CSOs and SSOs to AMS plan
10 information on a need to know basis relevant to their
11 operations for those that have an SSI clearance and/or
12 perhaps a synopsis of pertinent information or
13 provisions of the AMS be made available to CSO and SSO
14 use, again, on a need to know basis pertinent to their
15 operations with an SSI clearance. Thank you.

16 MR. HEDRICK: Good morning, Admiral,
17 Commander and ladies and gentlemen. I'm Bill Hedrick
18 with Rowan Drilling Company of Houston, and I'm here
19 representing Rowan as well as the Offshore Operators
20 Committee. My comment is very brief on the AMS plan.

21 We simply wish to thank the Coast Guard for
22 recognizing the unique operating characteristics of
23 our industry in mandating the 8th District establish
24 an offshore or outer continental shelf area plan.
25 Industry is committed to going forward to populate the

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1 Committee as well as timely producing the AMS plan,
2 and we hope that this process begins soonest. Thank
3 you.

4 MR. SPACKMAN: Alan Spackman,
5 International Association of Drilling Contractors. We
6 would second Mr. Hedrick's comments regarding the need
7 to timely establish the AMS or the offshore outer
8 continental shelf portion in the Gulf of Mexico. We
9 also would express some concern with respect to the
10 Coast Guard's statements in its regulations that
11 existing port safety committees, port security
12 committees would be recognized. While we see the need
13 for the continuity that the Coast Guard's trying to
14 establish, we would question whether these committees
15 have taken into account the much broader scope of
16 application of the MTSA as opposed to their
17 preexistent concerns over port safety and security.
18 Thank you.

19 MR. VOLKLE: Skip Volkle from Maritrans
20 again since this is a different docket. I just want
21 to reiterate my comments with respect -- that I made
22 earlier about our concerns about the lack of Coast
23 Guard authority offshore to deal with security
24 incidents, establish security and safety zones and
25 also the jurisdictional conflict between the various

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1 agencies who are attempting to respond to a security
2 incident. Those jurisdictional limits need to be
3 clarified. And from our perspective, from the marine
4 sector, we think that the Coast Guard ought to be the
5 lead agency in responding to a security and/or safety
6 incident involving vessels offshore. Thank you.

7 MR. McLAUGHLIN: Lindsay McLaughlin,
8 International Longshore & Warehouse Union. We note in
9 Section 103.305 the composition of Area Maritime
10 Security Committees. Our Union members have been
11 asked to participate in local port security committees
12 up and down the west coast that have made a valuable
13 contribution already. We would request that labor,
14 representatives of, or port workers' labor
15 organizations be included in the composition of these
16 committees. Thank you.

17 MR. KICE: My name is Mike Kice. I'm with
18 P&O Ports. I have participated in one of the
19 committees in the Gulf Port area. It's a small
20 community, and I would encourage you to allow private
21 industry to be as involved as you can in the
22 committees. It's really brought the community
23 together on our maritime side, law enforcement,
24 Customs, fire departments all have gotten a forum to
25 discuss the different issues, and it really has worked

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1 in that area. Thank you.

2 MR. STIER: I'm Kevin Stier, and I'm
3 actually a member of the Area Maritime Security
4 Committees, and I want to recognize that some of these
5 committees should have also passenger vessels members
6 on them. Some of them many not in some of the local
7 areas. Because that's the committee that's going to
8 regulate the T-boats and the smaller charter boats,
9 and I think it's important to have that representation
10 so that they have a voice in how they're regulated
11 under these port security plans.

12 RADM HERETH: What committee are you a
13 member of?

14 MR. STIER: The St. Louis Committee of the
15 Quad Cities.

16 CAPT. ZALES: Bob Zales, II, Chairman of
17 NACO. We agree with everything that's been said here
18 so far, and we would encourage you to utilize -- NACO
19 has extensive research and database on the social and
20 economic impact of charter boats in the United States.

21 Our membership ranges from Alaska to the Gulf of
22 Mexico to Maine, and we would encourage you to utilize
23 that resource and involve us in your committees so
24 that you can get that type of information to work with
25 your benefit/risk assessments and what not to get a

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1 good, clear picture on what will happen to the social
2 and economic impact of the local communities on the
3 waterways. Thank you.

4 MR. ANTAL: Jim Antal, Port of Tacoma.
5 The AMS committees are supposed to address rules for
6 handling and protecting classified, sensitive
7 security, commercial sensitive and proprietary
8 information. I believe that there has to be a uniform
9 addressing of these matters simply because of the
10 information that has to be distributed to many people.

11 The information is critical across the board to many
12 people in the maritime community, not just the people
13 on the committee itself. I don't believe that the
14 handling of SSI --I know the Coast Guard is working on
15 coming up with some clarification on this, but I
16 believe it's got to be uniform across the board, and
17 I'm not sure the committees are the ones to decide
18 those things. So I just want to point that out.
19 Thank you.

20 CDR ENGLEBERT: Seeing no further comment
21 we'll move to Subpart D and Subpart E of Part 103.
22 Subpart D includes area maritime security assessment,
23 general requirements, the elements of the assessment
24 and the persons involved in conducting the assessment.
25 Subpart E talks to the area maritime security plan

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1 requirements, the elements that the plan must contain,
2 the review and approval requirements for these plans,
3 the exercise of these plans and the record keeping
4 requirements for them. The floor is now open for
5 comments on Subpart D and E or Part 103.

6 MR. PRAZAK: You're going to make me
7 lonely up here. My name is James Prazak, I'm with the
8 Dow Chemical Company, and I want to make a point about
9 the port vulnerability assessments for the area plan.

10 In many cases, facilities and vessels, and in
11 particular facilities like ours that are part of the
12 chemical industry and active members of the American
13 Chemistry Council, have already been required to go
14 through and do our vulnerability assessments for our
15 facilities, and we're actively involved to the
16 enhancements to our requirements for the facilities.
17 So we've gone through and done all this effort on the
18 vulnerability assessments. Well, just yesterday I
19 received a questionnaire from one of my facilities
20 that's already been through a vulnerability
21 assessment, but this is for the area vulnerability
22 assessment, and it's a 25-page packet that we have to
23 go through and fill out. It makes me wonder why we've
24 done ours if now we're having to go do another one to
25 provide all this information.

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1 Again, a lot of the information is
2 sensitive from a commercial standpoint and from a
3 security standpoint. We don't really like the idea of
4 releasing our vulnerability assessment, because,
5 again, that's inherent to the security of our
6 facility, but there's got to be a way to mesh all that
7 together so that we don't go out and repeat a bunch of
8 work. And so I guess my suggestion is if there would
9 be a possibility on a national level of getting some
10 stakeholders together, both from the port side and the
11 Coast Guard, from the local areas and some industry
12 and try to figure out how we can mesh all that
13 together so that we're not doing rework but we're
14 still meeting the needs of the area plan. Thank you.

15 RADM HERETH: I'm sorry, please tell us
16 who you got the 25-page document from.

17 MR. PRAZAK: It's one of my facilities out
18 on the east coast.

19 RADM HERETH: And who did they receive it
20 from?

21 MR. PRAZAK: It actually came from a
22 contractor working for the Area Committee. I don't
23 know the exact company, because I haven't actually
24 gone through all the nit-picky details of it. I've
25 got it here in my folder. If you'd like, I can come

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1 up during the break and show it to you. Thank you.

2 MR. SPACKMAN: Alan Spackman,
3 International Association of Drilling Contractors. I
4 would express some concern regarding the use of the
5 terminology, "port, within the AMS requirements. It
6 implies a geographic area much more limited structure
7 than it seems that the plans are meant to apply to and
8 may be confusing to some people trying to figure it
9 whether it applies to them or not.

10 CAPT. ZALES: Bob Zales, II, Chairman of
11 NACO once again. Just to reiterate on what I've
12 stated before and particularly Subpart D, we would
13 encourage the use of, like I said, our organization
14 plus the many, and this was clearly stated earlier by
15 another gentleman, the vast number of recreational
16 fishermen that are -- or recreational boaters that are
17 on our waterways in these committees for the purposes
18 of determining the best local knowledge for the areas
19 that you're going to deal with. There's a vast number
20 of recreational boaters out there that are willing to
21 help and have tons of advice and knowledge that
22 they're able to give you, and we would encourage the
23 use of that in any way possible. If you have to
24 advertise in local newspapers, media, whatever, how
25 you need to do it to get their participation, they're

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1 more than willing to do it. In many cases, they're
2 just not aware of how to get involved. So if you will
3 involve them, the system should work a whole lot
4 better. Thank you.

5 MR. HEDRICK: Good morning again. Bill
6 Hedrick with Rowan. One other point, if you don't
7 mind, on Part B, on the AMS Committee structure and
8 composition. We respectfully suggest that the
9 requirement of a minimum five years security
10 involvement or management be stricken and rather
11 substitute some wording or verbiage to the effect that
12 they must have at least five years of port, maritime
13 or offshore oil and gas experience. We believe by
14 changing that definition, making it more broad, you
15 will allow the composition of the committee to accept
16 individuals who have unique management experience,
17 different perspectives, all of which, we're convinced,
18 will enhance the ultimate AMS plan. Thank you.

19 CDR ENGLEBERT: Seeing no further comment,
20 I just want to thank all of the speakers so far.
21 They've been very succinct. I've had little need to
22 use my visual tools, and I appreciate that. You also
23 have been very good at telling us your comment and why
24 you believe that your comment is important; in other
25 words, I want this change because this. So at this

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1 time, we're going to take a break. Now, the people
2 are setting up coffee so we're a little bit early.
3 Unfortunately, I suggest that we not bowl them over as
4 they're trying to get the coffee cups set up for you.

5 But I am going to break now until 11 o'clock.

6 (Whereupon, the foregoing matter went off
7 the record at 10:47 a.m. and went back on
8 the record at 11:05 a.m.)

9 CDR ENGLEBERT: All right. We're ready to
10 resume. Please find your seat. I've asked the
11 panelists to please come back to the podium. I'm
12 going to start whether or not you're seated, and I'm
13 going to start whether or not you can hear me. Thank
14 you. The next section we're going to discuss and
15 receive comment on -- and, yes, I was serious, I am
16 starting. The next section that we're going to
17 discuss is Part 104, found on Federal Register Page
18 39302 through 15. Comments for Subpart A and Subpart
19 B will be accepted at this time.

20 Subpart A for Part 104 includes the
21 definitions for this section, the applicability for
22 this section, compliance dates, a discussion of
23 waivers and equivalence, the requirements for
24 alternative security programs, MARSEC directives and
25 rights to appeal. Of course, the last three in this

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1 Subpart A simply point to Part 101. We've already
2 discussed 101.

3 Subpart B is the vessel security
4 requirements. The sections under Subpart B include
5 company security officer, vessel security officer, the
6 company vessel personnel with security duties,
7 security training for all other vessel personnel,
8 drill and exercise requirements, record keeping
9 requirements, maritime security level coordination and
10 implementation, communications and a discussion on the
11 requirements for all of the security measures,
12 including access control, restricted areas, handling
13 of cargo, delivery of vessels stores and bunkers,
14 monitoring and security incident procedures. Subpart
15 B also includes sections that address additional
16 requirements for passenger vessels and ferries and
17 additional requirements for cruise ships and
18 additional requirements for vessels on international
19 voyages.

20 Before I open the floor, I want to make
21 two broad comments to people speaking at the
22 microphones. Please say your name slowly, a little
23 more slowly than you are under the previous section.
24 And you only need to deposit one business card or one
25 slip of paper with your card or your information on

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1 it. Just one, that's all we need. Also, I need to
2 notify you that Fairplay will be taking some
3 photographs of you, most likely over on the left side
4 here, so if you need to brush your hair or do
5 something, you're going to be in a photograph that
6 will be a public photograph for Fairplay. So if you
7 don't want to be in a photograph, you might want to
8 move over here, but I'm not positive about that. No
9 guarantees. Yes, I'm delaying just a bit, and now I
10 will open the floor for comment.

11 RADM HERETH: I was looking for my hair
12 brush.

13 (Laughter.)

14 ADM. NORTH: Good morning again. Bob
15 North, Lloyd's Register North America. With regard to
16 Subpart A, 104.105(c) indicates that foreign vessels
17 that have onboard a valid ISSC and that it attests to
18 the vessel's compliance with SOLAS and ISP Code Part A
19 and having taken into account the relevant provisions
20 in the ISP Code Part B will be deemed to be in
21 compliance with 104. And that, of course, references
22 additional requirements which are clear in themselves.

23 The recognition of ISSCs issued by a foreign flag
24 administration we believe is very appropriate and
25 consistent with a mutual recognition by parties to

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1 SOLAS of other SOLAS statutory certificates. However,
2 the final rule should state what type of attestation
3 is acceptable, such as an endorsement on the ISSC or
4 an accompanying letter on flag administration
5 letterhead, et cetera, as suggested in the preamble.
6 What are other requirements, what will be acceptable?

7 Further, this provision seems a moderation
8 of the Coast Guard's position that ISPS Code Part B
9 was mandatory for foreign ships culling in the U.S.
10 The approach to attest to having taken into account
11 the relevant provisions of Part B seems to be no more
12 than the current requirement in Part A where such
13 direction is given. If this is not the case and port
14 state control officers will be looking for evidence of
15 specific provisions of Part B being provided or being
16 implemented as mandatory, then a list of specific
17 relevant provisions of Part B should be provided, much
18 as the European Commission provided in their proposal
19 of May 2, 2003 to the European Parliament on enhancing
20 ship and port facility security where they
21 specifically listed those relevant parts of Part B.

22 It would be helpful to at least provide
23 cross reference to ISPS Code Part A and B to assist in
24 comparison and identification of those relevant parts,
25 or parts the Coast Guard considers relevant, to

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1 clearly ensure communication on this very important
2 issue and we can do our job well. Thank you.

3 MR. BRYANT: Dennis Bryant with Haight,
4 Gardner, Holland & Knight. First, I want to
5 congratulate the Coast Guard on what I think is a
6 masterful rulemaking project. You took a complicated
7 system and put it into a mere couple hundred pages of
8 rulemaking, and you did it in a very timely fashion.
9 So you are to be congratulated in that regard.

10 Those of us who attended the meetings of
11 the Coast Guard Subcommittee on the 3rd of June and
12 the 22nd of July are well aware of a disconnect or
13 disagreement between the Congress and the Coast Guard
14 on whether the specific provisions of the MTSA
15 regarding vessel security plans should apply to
16 foreign flag vessels that are subject to SOLAS. I
17 fully concur with the Coast Guard's approach. The
18 problem is that the burden of the statute is placed
19 directly on the shipowner, not on the Coast Guard, and
20 non-compliance with the statute puts the shipowner at
21 risk. I would urge the Coast Guard to submit a
22 legislative proposal to Congress to make the MTSA
23 consistent with the ISPS Code and with the
24 regulations. As Admiral Collins stated at the hearing
25 yesterday, the system will work much better, more

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1 efficiently and provide more security to the United
2 States if it is multilateral as opposed to unilateral.

3 And right now the statute places a burden
4 on the shipowner and puts the shipowner in a very
5 difficult situation. If they don't comply with the
6 statute, are they protected from legal liability in
7 the event of a transportation security incident in
8 this country? They should not be the fall guy in the
9 dispute between Congress and the Coast Guard. The
10 Coast Guard should step up to the plate and address
11 the situation with Congress and get it fixed. Thank
12 you.

13 RADM HERETH: Dennis, could you just
14 clarify one thing?

15 MR. BRYANT: Yes.

16 RADM HERETH: You started off by saying
17 something about a disagreement. Could you just
18 explain what you think that is.

19 MR. BRYANT: I think the Committee members
20 indicated very clearly that it's their impression that
21 the statute requires foreign flag shipowners subject
22 to SOLAS to submit security plan to the Coast Guard
23 for review and approval, and they seem to express
24 discontent that the Coast Guard regulations deem
25 compliance with the ISPS Code to be compliance with

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1 the MTSA, and I think Congressman Oberstar on the 3rd
2 of June said there is nothing in the statute that
3 allows the U.S. Coast Guard to delegate
4 responsibilities to TSA and that is the disconnect. I
5 understand your position, I agree with your position
6 that the multilateral approach is better. The problem
7 is that in the event of litigation, the courts will
8 look both to the regulation and the statute and the
9 statute needs to be fixed. Thank you.

10 CDR ENGLEBERT: While we're getting ready
11 for the next speaker, I will remind you again to turn
12 off your cell phones and beepers. Thank you.

13 MR. CALLAHAN: Good morning. Bill
14 Callahan, I'm a maritime attorney and President of
15 Unitel Marine Security Services in New York. It's
16 always a pleasure to follow Captain Bryant. And I
17 must comment that it's unfair for a lawyer to drop
18 only one card in the box.

19 (Laughter.)

20 MR. CALLAHAN: My comments kind of echo
21 Dennis's comments and apply mostly to foreign vessels.
22 We recently put up on our web site the complete IMO,
23 ISPS and the SOLAS codes and the U.S. Coast Guard
24 codes. We recently have received a lot of replies
25 from foreign vessel owner/operators who are mainly our

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1 kind of clients that the confusion between following
2 the IMO regulations and what's happening in the United
3 States is of paramount concern. Now, I do know that
4 the Coast Guard has gone out of their way to clarify
5 that the ISPS and the SOLAS will be the main body that
6 they're following, and in fact in the July 1 Federal
7 Register that was made very clear, but I urge the
8 Coast Guard if they could strengthen or somehow pass
9 the message along in their documents that the IMO,
10 ISPS and SOLAS will be the paramount framework for
11 going forward.

12 I also want to comment on the RSOs.
13 There's a good deal of confusion on the RSO issue. The
14 Classification Societies are rushing pell mell to
15 become RSOs. Bureau Veritas, American Bureau of
16 Shipping, Lloyd's Register have all hired companies
17 like mine or absorbed them to become qualified RSOs.
18 The great deal of confusion is the RSO has to audit
19 the ship assessment security plans and cannot actually
20 perform them. This needs to be clarified as to who is
21 really an RSO and who qualifies as a maritime security
22 consultant. That's not clear to our clients overseas
23 who have a great deal of trepidation about the RSO
24 requirements. Thank you.

25 MR. WELCH: Good morning. I'm Edmund

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1 Welch. I'm Legislative Director for the Passenger
2 Vessel Association, and I'm here to support that
3 portion of the rule that has the Coast Guard's
4 decision to treat smaller capacity passenger vessels
5 with different standards than larger passenger --
6 larger capacity passenger vessels.

7 Many of our members run vessels that have
8 more than 150 passengers, but we have a substantial
9 portion of our membership that run vessels with a
10 capacity of less than 150. Under your rule, a small
11 passenger vessel carrying 150 or fewer does not have
12 to submit to you for review and approval a vessel
13 security plan, and you justify this through your own
14 analysis, your N-RAT and you have concluded as a
15 result of that analysis that the risk of a
16 transportation security incident for small passenger
17 vessels is far less than the risk for a larger
18 capacity passenger vessel. And since you are trying
19 to do a regulation based on risk-based analysis and
20 your analysis says that the risk is considerably less,
21 you have made the correct decision that there should
22 be a different standard for the smaller capacity
23 passenger vessels. We support that and we are here to
24 embrace that.

25 Also, from a competitive and a cost

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1 provision aspect, putting together a vessel security
2 plan is going to be costly. Smaller companies that
3 run smaller vessels do not have the same level of
4 resources that larger capacity passenger operators do,
5 and it is appropriate from a cost/benefit analysis,
6 given the relatively low security risk that you have
7 identified to treat these vessels differently. So we
8 thank you for the rule as you have written it, and we
9 endorse it in that respect.

10 MR. GORDON: I'm Fred Gordon from Global
11 Marine Security Systems. First of all, I'd like to
12 commend -- also commend the Coast Guard on taking the
13 ISPS Code, MTSA and all the public comment and
14 producing quite a comprehensive set of regulations.
15 First the carrot, now the stick.

16 With regard to Section 104.115 Paragraph
17 A, as per other comments, I would like the Coast Guard
18 to clarify that it does not intend to have foreign
19 vessels submit vessel security plans for review and
20 approval. I view this as some of our U.S. clients and
21 foreign clients have expressed that this would pose
22 undue regulatory -- sorry, administrative burdens on
23 them, and it also may impose undue administrative
24 burdens on the Coast Guard.

25 Second, in addition to some of the other

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1 comments already made, I would like to see a
2 comparison of the ISPS Code and SOLAS amendments and
3 what the Coast Guard sees as the differences laid out
4 as they have done in certain aspects within the
5 regulations here but on a more detailed basis,
6 specifically, what items within Part B are mandatory
7 as you've said previously, everything is mandatory,
8 and what are the additional things over and above the
9 ISPS Code that the Coast Guard will be looking for?

10 Third, I would like to see a mechanism by
11 which intelligence information, however characterized,
12 either SSI or non-classified, be given to companies
13 such as ourselves and some of the shipping companies
14 in general in order to assist them in operations. For
15 instance, I'd be interested in making sure that
16 companies have the ability to understand potential
17 threats in ports and areas throughout the world that
18 they're transiting to.

19 Fourth, with regard to requirements, as
20 stated in the ISPS Code, I realize the Coast Guard has
21 taken a stance where it does not specify specific
22 hardware requirements, but I would like to see in
23 particular some further clarification, however the
24 Coast Guard deems useful, for things that are very
25 highly capital intensive, such as lighting and a

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1 variety of other issues that shipowners are going to
2 have to be dealing with. Thanks.

3 RADM HERETH: Wait. Before yo leave,
4 please, could you just replay your comment about Part
5 A and Part B and maybe give an example of what -- you
6 seemed to indicate you had some confusion about how
7 that was to be interpreted or applied? Could you just
8 explain that again?

9 MR. GORDON: On public record, the Coast
10 Guard has stated in the past that Part B will be
11 enforced as mandatory. The way I read the rules it is
12 not as clear as that here, although I would take it as
13 such, and we are advising clients as such. Did that
14 answer the question?

15 RADM HERETH: I think so. I thought maybe
16 you had a particular section in Part B that was
17 confusing. Okay.

18 MR. GORDON: No. No.

19 MS. DOYLE: My name is Margaret Doyle.
20 I'm with the International Association of Independent
21 Tanker Owners. I was hoping to be first online but
22 Bob North's a lot quicker than he looks, so maybe
23 after lunch.

24 (Laughter.)

25 MS. DOYLE: Intertanko is made up of 250

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1 members from 45 countries, including the United
2 States. We represent approximately 2,100 oil and
3 chemical tankers worldwide and 60 percent of the oil
4 and chemicals trading to this country. We commend the
5 U.S. Coast Guard on its quest for harmonization with
6 the ISPS Code, especially with regard to
7 certification. Now here comes the stick.

8 Subpart B 104.240, here the U.S. Coast
9 Guard discusses security measures under MARSEC 3. The
10 rule provides that all vessel owners or operators may
11 be required to implement additional security measures,
12 including towing arrangements, waterborne security
13 patrols, use of armed security personnel, screening
14 for dangerous devices and other threats under water.
15 These items are new administrative costs and manning
16 issues, none of which have been clarified. One of the
17 problems we do worry about that at MARSEC Level 3 is
18 you could be creating an industry. No one would like
19 to see the words, "contract" or other approved means
20 introduced into this law. Thank you.

21 MS. CARPENTER: Jennifer Carpenter,
22 American Waterways Operators. A couple of comments on
23 Subpart A, and my colleague, Amy Brandt, will follow
24 up later with some comments on Subpart B in order to
25 avoid Sue's red card. My comments are going to be on

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1 the subject of the alternative security program
2 provision, and we want to start by saying kudos to the
3 Coast Guard for including this in the vessel security
4 plan rules. We think this is critical to the
5 effective and efficient use of industry resources and
6 also Coast Guard approval resources. So great job.
7 This allows for a best practices approach to plan
8 development tailored to the specific risks and
9 operations of a given industry. We intend to make
10 some modifications to the AWO model vessel security
11 plan and submit it for approval as an ASP, and we
12 appreciate the opportunity to take advantage of that
13 provision.

14 We would like to see the scope of this
15 provision expanded, however. At present, Section
16 104.140 does not permit the use of an ASP by a vessel
17 that engages on international voyages, and we would
18 suggest two areas for further work there. One, we
19 would like to see non-SOLAS towing vessels and barges
20 that do go on international voyages allowed to use an
21 alternative security program. There is, we think,
22 great value in a company being able to use one
23 security plan or one approach to the development of a
24 security plan for its entire fleet rather than one set
25 of plans or one plan for SOLAS vessels, one for non-

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1 SOLAS vessels.

2 Second, with regard to the SOLAS vessels,
3 we would be very interested in working with the Coast
4 Guard to explore what steps might need to be taken to
5 permit SOLAS vessels to use an alternative security
6 program to comply both with their obligations under
7 MTSA and ISPS, perhaps through the development of some
8 kind of supplement to the program. So we look forward
9 to working further with you on these items. Thank
10 you.

11 MR. VOLKLE: Again, Skip Volkle from
12 Maritrans. I'd like to support the comments of
13 Intertanko with respect to the MARSEC 3 requirements.

14 Where it starts talking about private industry
15 supposedly going out and hiring their own Coast Guard
16 to provide armed security on the water side, we think
17 that's completely inappropriate, that armed security
18 on the water ought to be provided in response to a
19 specific security threat by the Coast Guard or the
20 Navy. We shouldn't be going out and trying to create
21 our own enforcement mechanism with all the liability
22 and safety concerns that that might entail. The Coast
23 Guard knows what they're doing, they're the ones that
24 should be providing waterborne security.

25 With respect to Section 104.255, it talks

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1 about the vessel-to-vessel interface, and we think
2 that the requirements in this with respect to
3 declaration of security are very impracticable,
4 particularly with respect to things like pilot boats,
5 assist tugs, escort tugs and particularly when you get
6 to MARSEC Level 2 there's really no way when you're
7 dealing with assist tugs or pilot boats to have this
8 exchange of paperwork, and there's no way under the
9 regs that you can have a blanket agreement that, yes,
10 you're the Tampa pilots, you're allowed to come
11 alongside, or you're Vita Assist Tug Company, you're
12 allowed to come alongside. There should be some
13 mechanism to provide for vetted contractors to be able
14 to do vessel-to-vessel interfaces without all the
15 paperwork.

16 Security measures for access control,
17 again, there is a requirement that we have to have
18 something in our plan to address measures for
19 repelling borders. We don't believe that we ought to
20 be arming our tank vessel crews to repel borders and
21 issuing cutlasses is probably not going to be
22 appropriate, but, again, it's very unclear and it
23 creates a requirement on the private industry that I'm
24 not sure that we're prepared to deal with.

25 RADM HERETH: What section are you

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1 referring to?

2 MR. VOLKLE: That was in Section 265.
3 Also, in Section 265, there is a provision that says
4 that the crew should not be subjected to personal
5 searches without cause. We agree with that
6 completely, but we think that the in the elevated
7 MARSEC areas it requires blanket searches of all
8 personnel. We think that the provisions with respect
9 to not searching crews should apply to the elevated
10 security levels.

11 Section 270 requires continuous monitoring
12 of restricted area tankers, tug boats pushing oil
13 barges. We intend to have the entire vessel as a
14 restricted area. Where the requirement is is to
15 continuously monitor restricted areas. We're not sure
16 what that means. We intend to have crews checking
17 while they're on watch to assure that aren't
18 unauthorized people onboard the vessel. That's not
19 quite the -- we're not sure that that's the same as
20 continuously monitoring and that should be clarified.

21 Finally, with respect to Section 0.275
22 talks about routine checking cargo spaces. The reg is
23 designed to address things like container vessels and
24 we're liquid bulk cargo so you can't really have
25 people sticking their heads in liquid bulk tanks to

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1 find out whether there is somebody in there, and if
2 there is somebody in there, they're not going to be in
3 there for long so we don't care.

4 (Laughter.)

5 MR. VOLKLE: So, very quickly, those are
6 some of our comments. Thank you.

7 MR. SHEEHAN: It's tough to follow Dave
8 Letterman Volkle here.

9 (Laughter.)

10 MR. SHEEHAN: My name is Dan Sheehan. I
11 represent International Registries. First, a comment
12 on 104.240 on the MARSEC Level 3. With respect to the
13 use of waterborne patrols and armed guards under the
14 direction of a ship's master, in our view this creates
15 numerous areas for clarification, such as authority,
16 use of force guidance, personnel qualifications and
17 potentially liability for the action of those patrols
18 and guards, to name a few.

19 Another section of concern is
20 104.265(e)(4), which states that a person's
21 authorization to be onboard a vessel may be denied or
22 revoked if unwilling to establish their identity. We
23 would suggest in the final rule that it made be clear
24 that this also applies to U.S. government
25 representatives as well as visitors. We have had

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1 several instances where U.S. government
2 representatives have showed up and said that their
3 badge is their ID card, and they were unwilling to
4 show a photo ID. So we would suggest that as
5 clarification. Thank you.

6 CAPT. ZALES: Bob Zales, II, Chairman of
7 NACO. We ditto the comments from the gentleman with
8 PVA. Some of the comments in the letter that I just
9 submitted were actually almost verbatim to his. What
10 I would like to do is briefly describe to you, and I'm
11 sure most of you understand, who our members are and
12 what they consist of. Most charterboat people that we
13 represent, the vast majority, range in vessel size
14 from small guide boats on up to 100-foot, what we
15 call, head boats that carry 150 people. The majority
16 of our members are fishermen, and these vessels, like
17 I said, they range in size in 15 feet on up to 100
18 feet. When you deal with gross tonnage, and we all
19 know, those of us that have to deal with inspected
20 vessels, tonnage and footage don't always match up. I
21 mean you have a 100 gross ton vessel that would be 100
22 feet long.

23 So we would suggest that you play with the
24 footage on this. And, basically, what we're asking
25 for in this rule, in our description, in the letter

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1 you will see a little more information about the
2 various activities that our people do, the routes that
3 we range over and that type of thing. We would
4 request that you basically give our boats, anything
5 under 100 feet that carries passengers from one to
6 150, a blanket exemption to this particular section.
7 And we feel that that is more than reasonable. We
8 think that your own statements in the Federal Register
9 clearly identify that vessels under 100 gross tons are
10 probably not going to be involved in a serious
11 maritime incident. Other language in the Federal
12 Register clearly states that the risk/benefit ratio
13 does definitely not apply here.

14 And when you look at Table 1, your little
15 bar chart, and you see where recreational vessels are
16 on the bottom, you have fishing boats just a step or
17 two above. We're somewhere in between. Most of the
18 people in our business and most of our members are not
19 very much different than recreational fishermen with
20 the exception that we're licensed individuals that
21 operate the vessels. Basically, the vessels
22 themselves are very similar. In many cases, they have
23 a little more safety equipment that's required, but
24 other than that they're very similar. So we would
25 request that you just give us a blanket exemption

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1 and/or a waiver. And for those of us that have
2 certified vessels to have stipulated on the
3 Certificate of Inspection the exemption from this
4 particular rule. Thank you.

5 MR. DENO: Stan Deno, International
6 Council of Cruise Lines. I didn't want to disappoint
7 Ed Page so I'm up here again. First, although I've
8 been up here a number of times, I do think it is
9 appropriate since some others have made the comment we
10 do applaud the Coast Guard on their efforts in putting
11 this package together. It was something to read, so I
12 can only imagine what it was like to put together and
13 they should be complimented on that.

14 We'd also like to support Mr. Sheehan's
15 comments on IDs. We have experienced that numerous
16 times on our ships where government officials walk on
17 board and say, "My uniform and badge are my ID. We
18 don't need anything else." And if we don't agree to
19 that, somehow our ship gets held up and is not cleared
20 or something else happens where our operation is
21 slowed down.

22 Moving on to waterside security, we'd also
23 like to support those comments and we have some
24 experience in that area. And we believe that
25 enforcing security on the waterways of the United

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1 States is an inherently governmental function. It can
2 only be accomplished utilizing law enforcement
3 authority of a duly authorized law enforcement
4 officer. The responsibility for providing waterside
5 security does not disappear when the ship leaves. The
6 terminal still should be protected. Our operators
7 have been -- or I should say agreed after 9-11 to
8 lower our lifeboats to the water for the purpose of
9 showing a presence. We've never agreed to or seen
10 this as a viable security measure or a long-term
11 solution. This does not, as the others have said,
12 provide waterside security, and we would like to
13 emphasize that point. And any mention of it in the
14 requirements for the vessel security not only are
15 unrealistic but also contradict the ISPS Code which
16 only talks about it from a port facility plan context.

17 We also in this same section believe that
18 in I think it's 104.210 it says that the CSO may
19 delegate the duties but remains responsible for their
20 completion of things, such as the vessel security
21 assessment. However, there is some confusion because
22 it also states in the rule that the CSO must conduct
23 on-scene survey. Those two appear to contradict each
24 other, and that needs to be clarified. And before I
25 get the red card, I'll go to the end of the line.

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1 Thank you.

2 MR. STIER: Kevin Stier with the Diamond
3 Jo in Dubuque, Iowa. I have a comment on Section
4 104.110 under exemptions. We have government vessels
5 that land at a dock next to our facility and our dock.

6 They typically take on large numbers of passengers,
7 and I would hope that there is some form of regulation
8 that covers security on government vessels, because
9 under the exemptions it states that there isn't a type
10 of security for these. Sometimes these people take on
11 200 to 300 passengers on these vessels, so I would
12 hope that there is some other forum, if it's not in
13 this rulemaking, some other forum that would make sure
14 that that vessel is secure, the group of vessels is
15 secure, because it constitutes a breach in our
16 security next to our facility. Thank you.

17 RADM HERETH: I'm sorry, where are you
18 from?

19 MR. STIER: Dubuque, Iowa. And this is
20 government vessels.

21 RADM HERETH: What kind of government
22 vessels?

23 MR. STIER: Corps of Engineer vessels.

24 RADM HERETH: Two to 300 passengers?

25 MR. STIER: Yes.

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1 RADM HERETH: Is that what you said?

2 MR. STIER: Yes. They load them on to
3 flat rock barges.

4 RADM HERETH: For the purpose of?

5 MR. STIER: They take them on tours of the
6 lock.

7 (Laughter.)

8 MR. STIER: It happens several times a
9 year, and there's also the government vessel, the
10 Mississippi, I believe, a large towboat that goes from
11 town to town. So thank you.

12 CDR ENGLEBERT: Marine Safety out of St.
13 Louis should be told about that.

14 RADM HERETH: We'll pass that to the CO of
15 the Marine Safety Office in St. Louis.

16 (Laughter.)

17 RADM HERETH: Or the future one.

18 MR. BOHLMAN: Mike Bohlman. I'm with
19 Horizon Lines, which is a container ship operator
20 liner service predominantly between domestic ports but
21 also some international ports. First, I'd like to
22 align myself with the comments Dan Sheehan made
23 regarding identification of government personnel and
24 also waterside security. Those are two important
25 issues, and I agree completely with his points.

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1 I also agree we need some clarification,
2 the prior speaker, with regard to the company security
3 officer and the need for him to personally do the
4 assessments versus delegating that. It does appear to
5 be a contradiction in the regulations.

6 Two other comments, one with regard to
7 security training for all other vessel personnel. In
8 that section, it requires training of contractors.
9 Contractors is an extremely broad term and we could
10 conceivably be in the position where we're training
11 the entire industry. Every vendor that comes down to
12 our ship to work on it is a contractor. It covers a
13 lot of ground, and I doubt that we really need to
14 train all those people. Even so far as to train
15 riding gangs is probably an overkill in most cases.

16 The other issue that we have is with
17 regard to the declaration of security. You've
18 provided some flexibility in the regulations regards
19 to when they're required. I think we could use a
20 little more beyond what's there, particularly for
21 liner services, particularly for ships that are
22 calling on a weekly basis at the same port, same ship.

23 MARSEC 1, in my mind, we have to question how much we
24 need that and how much it has to be renewed. If every
25 90 days, which would be allowed under the current

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1 regulations, it seems to me is too short a period if
2 there's no changes and we're still at MARSEC 1. So I
3 ask that that get relooked at and rethought. In the
4 basis of domestic services and on the basis of liner
5 services, which maybe has some lower risks than other
6 services might have. Thank you.

7 RADM HERETH: Will you provide some
8 recommendations or do you have anything in mind
9 regarding the 90 days, how far to stretch that to, and
10 -- go ahead.

11 MR. BOHLMAN: I don't know off the top of
12 my head, but I will put comments into the docket -- we
13 will put --

14 RADM HERETH: And then your first
15 recommendation was the training of contractors. Help
16 us understand where you would like to see the line
17 drawn.

18 MR. BOHLMAN: I think unless the
19 contractor specifically there is for security
20 purposes, with security duties, that it's really not
21 something we need to do, that there's no value added
22 and it would be a tremendous burden.

23 CAPT. LANTEIGNE: Good morning. I'm Reg
24 Lanteigne, Canadian Shipowners. I specifically would
25 like to refer to Page 39297 and Page 39303. On the

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1 first page, the text in the middle column of the page
2 starting at, "However," and goes on, goes on, goes on,
3 but would require that non-SOLAS Canadian flag ship
4 trading in the inland waters submit their vessel
5 security plan into the U.S. Coast Guard for approval.

6 And this is in the text of the regulation, this is
7 Section 104.105(a)(2).

8 Earlier, I spoke about inland voyage being
9 defined as international voyage, presumably meaning
10 that we will be subject to SOLAS and ISPS Code. So be
11 treated the same as any other foreign flag trading in
12 this country. Although we are honored to be singled
13 out --

14 (Laughter.)

15 -- that's no joke. We are probably the
16 largest trading ships in the U.S. ports volume-wise.
17 We somewhat fail to see the -- don't understand the
18 practicalities of doing this and what it means in
19 practice. But we have no problem with this
20 requirement at this point in time.

21 My point related to this is our national
22 security organization has informed us recently that
23 our ships, these same ships and presumably U.S. flag
24 inland ships will now be subject to SOLAS ISPS and
25 could make use of the alternative security program

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1 that is laid out in your rule and your ISPS Code. We
2 would urge you to talk actually about what would be
3 the requirements for U.S. flag ship tradings -- U.S.
4 flag and Canadian flag ship trading in U.S. ports and
5 U.S. flag ship trading in inland ports on the Great
6 Lakes and Seaway. Main message is for us is the
7 bottom line we're going to comply with whatever the
8 rules are. Thank you.

9 MR. HEDRICK: Bill Hedrick again with
10 Rowan. Assuming I don't drop all my materials,
11 including the wonderful ISPS book, we have some
12 concerns and some confusion as regards 104.285,
13 security measures for monitoring. Specifically, the
14 phrase, "the capability to continuously monitor," has
15 caused quite a bit of confusion within the drilling
16 contractor and our customer, the oil and natural gas
17 producers, community. We believe -- well, the
18 difference of opinion is simple: Some folks believe
19 that's 24/7/365 mandate; others believe that it is a
20 little bit more flexible. We suggest that that phrase
21 perhaps be monitored to -- or changed to, "frequent
22 monitoring" or "continual monitoring." There is a
23 distinction.

24 Secondly, perhaps the most confusing point
25 in 285 is whether or not all of the various security

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1 elements listed in 285 are mandatory. Many people
2 have interpreted the phrase, "through a combination
3 of," and then "lighting, watchkeeping, et cetera," to
4 believe that they must have each of those elements
5 with the exception of the last two, which is the
6 instruction devices or surveillance equipment. We
7 suggest that you consider adopting the language found
8 in ISPS Part B 9.52 which states, "such monitoring
9 capabilities may include use of, colon," and then list
10 those elements. That will allow each covered vessel,
11 and for that matter facilities under 105.275 and OCS
12 facilities, 106.275, since the language is the same,
13 to have the necessary flexibility and latitude to
14 tailor the equipment requirements for their facility
15 and the risks that are developed through the
16 assessment process. Thank you.

17 MR. MARRIOTT: Good morning. My name is
18 Jim Marriott. I'm the Director of Regulatory Affairs
19 with the Department of Transport in Canada, and my
20 comments pertain to those comments very eloquently
21 spoken by Captain Lanteigne of the Canadian Shipowners
22 Association just two speakers ago.

23 But before doing so, I'd like to
24 congratulate the U.S. Coast Guard on what is obviously
25 a monumental task. I'm heading up a team of folks who

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1 are doing the same kind of a project as you have but
2 we're doing it north of the border for the ISPS Code
3 implementation in Canada. It is a daunting challenge,
4 and so as a fellow regulator, I both congratulate you
5 and sympathize with you for the efforts in this task.

6 But as a regulator, I also appreciate that
7 there are procedural constraints around today's
8 proceeding, and I respect that you've asked that our
9 comments be submitted to you in the form of a
10 question, and so my question then would be would the
11 U.S. Coast Guard accept Transport Canada's invitation
12 to discuss harmonization and coordination of our
13 regulations, most notably with respect to Great Lakes
14 operations? Thank you.

15 CDR ENGLEBERT: Our comment was to state
16 it in a comment form, not a question form, but that's
17 okay. We understand that comment. Next.

18 MR. DENO: Stan Deno, International
19 Council of Cruise Lines. I think for the other
20 members of the panel I might just state who maybe are
21 not familiar with our industry we have had security
22 plans, security officers since the '80s. Our comments
23 here and to the docket are not by way of complaint,
24 they are by way of lessons learned over the years and
25 things that we see need to be maybe tightened up a

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1 little bit in the regulations.

2 So with that said, we'd like to support
3 the previous speaker concerning the section in 104.225
4 on part-time and temporary contractors and the
5 definition of all other personnel. It seems totally
6 unnecessary to provide security training to a radar
7 repairman who will be escorted the entire time they're
8 onboard. How does that benefit the security of the
9 vessel? There's no reason to provide the training
10 required in this section to anyone who's only going to
11 aboard the vessel less than 12 hours. Even repairmen
12 or contractors that sail with the vessel do not need
13 the detailed security training specified in this
14 regulation. These contractors are there to do a
15 specific job and have no other shipboard
16 responsibilities, much the same as passengers.

17 Also, in 104.270(b)(8), while we agree
18 that crew accommodations are an area that should be
19 off limits to others on the ship, practical and unsafe
20 to treat them as a restricted area the way restricted
21 areas are meant to be dealt with in this regulation.
22 The individual crew cabins are locked, those areas are
23 monitored by security patrols, and similar to the
24 neighborhood watch programs you find in your own
25 neighborhoods, the crew themselves police those areas

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1 by keeping those that do not belong out of them. And
2 we believe that by putting that in the restricted area
3 you're going to have to either lock the doors with
4 access to that, and that creates safety problems with
5 the rest of SOLAS. Thank you very much.

6 MS. SHELTON: Good morning, Laura Shelton
7 with the National Maritime Education and Training
8 Association. One of the main concerns that we have
9 with this regulation is the lack of formal training
10 for company security officers, vessel facility
11 security officers and other personnel with direct
12 security details. When you look at other mariner
13 training, whether it's CPR, celestial navigation,
14 assistance towing, there are specific requirements
15 that they need to take for training. There's also
16 measures set in place to ensure that they have
17 received that training and can then use it and apply
18 it to their position. Whereas this regulation states
19 that these officers need to have a general knowledge
20 through training or equivalent job experience.

21 Our members feel that security training
22 should be held to a higher standard than a lesser
23 standard than other Coast Guard training. Also, we
24 have presented this as well to Bruce Carlton at MARAD
25 and indicated our willingness to provide our

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1 assistance through NMETA's resources as well as our
2 members' resources, and I would like to make that
3 available to you as well. Thank you.

4 CAPT. PAGE: Ed Page, Marine Exchange of
5 Alaska and Maritime Information Service North America,
6 addressing the issue of company security officer.
7 There's a whole suite of requirements and expectations
8 of that individual, and one thing that I believe would
9 be missing is just the fact that the company security
10 officer you have the finger on his pulse or her pulse
11 with respect to where the vessels are and really have
12 a profound knowledge of their operations and
13 monitoring that. And I know that many responsible
14 maritime operators around the country these days are
15 in fact doing that using satellite systems to track
16 their vessels at a cost of about a latte a day or
17 grande latte a day, that is, and yet they can see
18 their vessels. So I would suggest there be some
19 suggestion about the fact that there's an expectation
20 that in addition to knowing what would be done in an
21 emergency, that these people are monitoring where
22 their vessels are and that they would report any
23 anomalies or anything out of the ordinary, again, the
24 analogy of the Neighborhood Watch that Stan mentioned
25 before and others have, that the marine industry

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1 really does understand when things are array or out of
2 the ordinary and there would be a responsibility to
3 look for those things, they monitor where their
4 vessels are, and they report those anomalies to the
5 Coast Guard or other authorities responsible for
6 vessel security. Thank you.

7 MS. BRANDT: Amy Brandt, the American
8 Waterways Operators. And as previewed by Jennifer
9 Carpenter, I have some specific comments from AWO
10 members on Subpart B. First, vessel security officer
11 responsibilities outlined in Section 104.215(3) and
12 (4) should be able to follow to the company security
13 officer in the cases of unmanned barges. For example,
14 if the VSO for an unmanned tank barge is the person in
15 charge, that person should not have to be designated
16 by name but only by title, because the person in
17 charge may vary from cargo operation to cargo
18 operation.

19 On the issue of drills, drills should only
20 be required for manned vessels, and crew members
21 should receive credit for drills they participate in
22 aboard sister or similar vessels. Allowing this
23 credit would eliminate the requirement for drills to
24 be conducted when the percentage of vessel personnel
25 with no prior participation in a vessel security drill

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1 exceeds 25 percent. Under Section 104.230(b)(4), some
2 vessels could have to conduct drills at every crew
3 change, which would far exceed the requirement to
4 conduct drills quarterly.

5 The vessel security rule should also state
6 more clearly the scope of exercises. Exercises need
7 to be a company-wide test of company security
8 measures. The rule does not state that specifically
9 as it's written now.

10 With respect to vessel record keeping
11 requirements, in Section 104.235(b)(8), vessel record
12 keeping -- the record of the annual audit of the
13 vessel security plan should be certified and kept by
14 the company security officer for barges and towing
15 vessels, not the vessel security officer.

16 With respect to security measures for
17 access control in 104.265(c)(4), which requires the
18 use of disciplinary measures to discourage abuse of
19 the identification system, it should be revised to
20 provide only that company's developed policies and
21 procedures to discourage abuse of the identification
22 system.

23 The requirement in Section 104.265(e)(2)
24 for posting new signs unmanned barges to describe the
25 security measures in place is unnecessary. Existing

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1 signs already specify that visitors are not permitted
2 aboard barges and additional signs would do little to
3 improve security, and moreover the towing vessels
4 accompanying the barges would already have these signs
5 posted on them. Thank you.

6 MR. HAYDEN: Channing Hayden, Steamship
7 Association of Louisiana. Several comments. One,
8 which applies to this docket and all the other
9 dockets, is 30 days is not enough time to comment --
10 to understand and comment on these regulations. I
11 recommend that we have an additional 60 days for
12 comment to be submitted.

13 Number two, I think Dennis Bryant's
14 comment should be written in big, red letters.
15 They're extremely important. If foreign vessels have
16 other things to comply with in order to meet either
17 these regulations or the MTSA, they have to be
18 addressed here in these regulations. The regulations
19 themselves are confusing because they say that the
20 foreign vessels only have to comply with 104.240, 255,
21 292, and 295, yet there are other sections that refer
22 to what foreign vessels or SOLAS vessels might have to
23 do. So we need to clearly state what SOLAS vessels,
24 foreign flag vessels, however you want to classify
25 them, have to do. And in that regard, Holland &

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1 Knight has put out a very comprehensive three-page
2 recommendation on what they believe foreign vessels
3 have to do to comply with both the Coast Guard
4 regulations and the MTSA. I would recommend that the
5 Coast Guard address those issues in these regulations.

6 And if foreign vessels are going to have to say how
7 their plan complies with area plans, this is going to
8 be extremely complicated, because the foreign vessel,
9 especially a tramp vessel, may not know which area
10 it's going to, and therefore once it gets orders to go
11 into a particular area it's not going to have the time
12 within the commercial requirements in order to make
13 their plan compatible.

14 My last comment is that this directive of
15 security is going to be very disruptive to commerce.
16 Vessels when dealing with facilities are at a
17 commercial disadvantage to begin with. Facilities
18 may, if they choose, require vessels to do things
19 which the vessel incurs expenses for and may not think
20 is necessary. Who becomes the arbiter if there is a
21 disagreement between two vessels, between a vessel and
22 a facility, et cetera, as to what is required in the
23 DOS?

24 Lastly, you need to address how we are
25 supposed to deal with unauthorized persons on vessels

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1 when those unauthorized persons may consider
2 themselves on union activity, protected free speech
3 activities, et cetera. Thank you.

4 RADM HERETH: Channing, before you leave
5 --

6 MR. HAYDEN: Yes, sir.

7 RADM HERETH: -- there have been a number
8 of documents and articles written, just so we're --
9 we'd be glad to comment on the document you're
10 suggesting we comment on, but just to make sure that
11 we understand exactly what you're talking about, would
12 you work with Dennis Bryant or whoever wrote that
13 article to make sure we have it submitted for the
14 record?

15 MR. HAYDEN: Absolutely, sir.

16 RADM HERETH: Thanks.

17 MR. HAYDEN: Thank you.

18 MR. DUFFY: My name is George Duffy. I am
19 President of Navios Ship Agencies, Inc., based in St.
20 Rose, Louisiana. I am also Chairman of the New
21 Orleans Board of Trade Maritime Committee. We
22 represent foreign owners and operators of deep-draft
23 vessels. We operate in all U.S. ports, and we handle
24 on a probably average of about 1,200 foreign flag
25 vessels a year. Our comments are directed to Section

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1 104.25, and I would also like to support Mr. Hayden's
2 comments and the previous comments that were made
3 regarding the vessel security plans and the problems
4 that we run into in Section 104.255 with the DOS.

5 We feel that there should be a
6 standardization of these DOSs involved with terminals
7 because of the vessel arrival times sometimes are
8 coming into the port, anchoring, inspecting and moving
9 into the facility and then immediately start loading
10 its cargo. The time delay that this could impose upon
11 the vessels could be very costly to commerce down the
12 road. If you're going to an elevator, a grain
13 elevator, then therefore if they have a facility plan,
14 it should be public, should be presented, approved by
15 the Coast Guard and then be able to be presented to
16 the owner before the vessel arrives in the port. This
17 way it's not last minute negotiations as to what we
18 need to do to move this ship along at a very high
19 cost.

20 The issue of launches, pilot boats, water
21 taxis, bunker barges coming alongside the vessel also
22 require a DOS which can be very complicated. A simple
23 issue on a Mississippi River, we have high currents,
24 we have bunker barges coming down with a tow boat.
25 Could be 400 horsepower, could be 800 horsepower,

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1 could be manned by Coast Guard-approved license
2 personnel, two or three people on a vessel, they're
3 coming alongside 150,000-ton dead weight vessel and
4 they have to get the hoses hooked up and all of a
5 sudden call for a conference on deck to write this
6 instruction. So I think some of these things must be
7 considered as time frame because although we all
8 support the safety issues, we also have to be worried
9 about safety -- you can't have the captain of that
10 barge leave that vessel.

11 The last point is we do not need to create
12 an industry with armed patrol boats that are at the
13 designation of any facility. This we feel is the job
14 of the United States Coast Guard. I have submitted
15 some written comments. Thank you for your time.

16 MR. SPACKMAN: Alan Spackman,
17 International Association of Drilling Contractors.
18 I'd like to second the earlier comments regarding the
19 feasibility of the DOS. We see some potential
20 problems with what appears to be a requirement to
21 physically exchange the document in order to effect a
22 vessel-to-vessel interface. There ought to be a way
23 to do this without having to physically exchange the
24 document because of weather conditions or safety
25 conditions that would preclude that activity.

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1 I would like also to address
2 104.215(a)(2), which requires the vessel security
3 officer on a manned vessel to be a member of the crew.

4 On industrial vessels, such as mobile offshore
5 drilling units, we may have a regular complement of 60
6 people or so but a crew of only three or four, and to
7 require that they actually be a member of the crew
8 seems unduly restrictive and certainly would -- since
9 those people have other assigned duties would be --
10 might conflict with those duties. We'd must rather
11 have the ability to assign that responsibility to any
12 member of the regular complement.

13 Finally, in 104.105, there is some
14 confusion regarding the applicability to motives.
15 There's a disconnect between the discussion in the
16 preamble, the economic analysis and what we view as
17 the reading of the final -- or the interim regulation
18 in 104.105, and we'd like that clarified.

19 The rules in various locations also use
20 the shorthand, "Subject to SOLAS." Well, as the Coast
21 Guard's aware, Chapter 5 of SOLAS has a different
22 applicability than Chapter 11 of SOLAS, and we would
23 suggest that there be clarity provided in stating
24 which chapter of SOLAS is the trigger throughout the
25 regulations. Thank you.

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1 RADM HERETH: Al, will you be providing --
2 regarding the motives, will you be providing some
3 recommendations to us?

4 MR. SPACKMAN: Yes, sir; we will.

5 MR. ALEXANDER: Good morning. Steve
6 Alexander with BP Shipping Company, and my comments
7 are in reference to Sections 104.115, compliance
8 dates, and 104.120, documentation. It would appear in
9 actually some earlier comments that were made on a
10 different section about the workload the Coast Guard's
11 going to be under in approving all of these vessel
12 security plans, the way I read this it says that come
13 January 1 of 2004 any foreign ship that comes into
14 U.S. waters had better have the proper certificate.
15 But by the same token, reading 120, we could be
16 sending U.S. flagships on foreign voyages with the
17 maritime equivalent of a note from your mother saying
18 we're going to get around to it because the Coast
19 Guard doesn't have enough manpower to give them the
20 ISSC certificate. Are we going to do the same thing
21 for the international flagships who their flag state
22 may not have had enough time?

23 CDR ENGLEBERT: Is that a comment, sir?
24 Please make it in a formal comment.

25 MR. ALEXANDER: Okay. That's my concern,

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1 that we might not -- there might be some reciprocity
2 problems here if we send a U.S. flag ship out without
3 the ISSC certificate because the Coast Guard doesn't
4 have the manpower to issue those, and we'd encourage
5 you to maybe look at a prioritization system for ships
6 that could potentially be going on international
7 voyages after July of 2004.

8 CDR ENGLEBERT: Thank you.

9 MS. SIMARD: Good morning. My name is
10 Sonia Simard with Fednav International, Limited.
11 That's ocean-going vessels trading mainly in the Great
12 Lakes and U.S. east coast. And my comment is to
13 follow up on the gentleman from the Louisiana
14 Steamship Association. We also happen to have read
15 the three pages of the Holland & Knight document that
16 he was referencing, the law firm. And the comment is
17 more on the type of document that will have to be
18 submitted by ocean-going vessels to comply with. In
19 these three pages, by memory, it mentions having an
20 annex to the certificate to give additional
21 information to comply with the U.S. requirements, and
22 in that there's also a mention of adding to annex the
23 vessel security assessment, which only the ISPS Code
24 is considered as a company document, which this law
25 firm interpreted as being required under the U.S.

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1 requirements. That's to give you an example of when
2 actually, I guess, companies looking into finding
3 information are finding different type of
4 interpretations. So it is really to underline the
5 need to -- on this issue.

6 And there's also comments that you may
7 need to give the name of the company, security company
8 contractor, and there was a comment from Intertanko,
9 and we certainly don't want to have to give you a name
10 of a security company to enter into that process to
11 create a new business of security companies. So we
12 really wish to underline the need to maybe get some
13 clarifications on what's going to be needed from the
14 documentation point of view and also in relation to
15 security companies. Thank you.

16 CAPT CHOPRA: Good afternoon. My name is
17 Anuj Chopra from Anglo-Eastern Ship Management. We
18 would like to support and second comments made by Bill
19 North on the certificate -- Intertanko, Maritrans, and
20 Fednav. We request exact specifics of the
21 documentation required to show compliance with Part B,
22 because we feel that that might become a stumbling
23 block. Although the vessel may have an ISSC,
24 different flag states may issue differing
25 documentation.

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1 Regarding contractor training, we request
2 if this handled by yourselves with direct legislation
3 rather than leave it on the shipowner or the ship
4 operator. Of course, we would --

5 RADM HERETH: I'm sorry. Please repeat
6 that last comment.

7 CAPT CHOPRA: We are scared that if we are
8 held accountable for checking the security training
9 undergone by subcontractors who are boarding the
10 vessel we may not be able to do this effectively.

11 Of course, we would like to congratulate
12 you on accepting the ISPS Code as an equivalent to the
13 MTSA and the requirements for the foreign flag.

14 On the training side of it, we again
15 compliment you that you have stuck to competencies
16 rather than a certificate or a training course or
17 approving training courses which would make it more
18 effective. The competencies make it more effective
19 rather than a piece of paper.

20 Thank you.

21 MR. WEAKLEY: Good morning. I'm Jim
22 Weakley with the Lake Carriers' Association. We
23 represent U.S. flag carriers engaged in bulk
24 transportation on the Great Lakes.

25 I would like to echo the comments made

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1 earlier by both Transport Canada and my counterpart,
2 Rej Lanteigne with the Canadian Ship Owners
3 Association with regard to the definition of
4 international voyage for vessels and voyages that are
5 solely navigating within the Great Lakes/St. Lawrence
6 Seaway system.

7 We believe that there needs to be harmony
8 between the U.S. Coast Guard regulations and those
9 that we anticipate by Transport Canada. Furthermore,
10 we believe that that market segment on the Great Lakes
11 is an ideal -- is ideally suited for an alternate
12 security plan. And, in fact, we have already
13 partnered with both the U.S. Coast Guard, the Canadian
14 Coast Guard, and Transport Canada to move that process
15 forward.

16 We also believe that that definition may
17 be somewhat counter to the Smart Border Initiative and
18 to the good working relationship between the United
19 States and our partner to the north. Furthermore, we
20 will be submitting written comments for the record on
21 those issues.

22 Thank you.

23 MR. PRAZAK: My name is James Prazak. I'm
24 with Dow Chemical. The comment I'm offering is -- was
25 actually generated by CTAK and the Subcommittee on

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1 Security, but I'm really offering this more for the
2 benefit of the audience, because if it's a solution
3 that they could buy into, it might be worthwhile to
4 put it in their comments.

5 This goes all back to 104.225, the
6 security training for all other personnel, and
7 specifically the repairmen and people of that nature
8 that come on the vessel. What we recommended was that
9 personnel who will be performing security duties on
10 the vessel, like a vessel PIC during a transfer, or a
11 crew member, need to have training -- security
12 training relative to their appropriate duties.

13 But other people who are simply on the
14 vessel to perform temporary work or things of that
15 nature, and who won't have responsibility for security
16 duties, should simply require an appropriate
17 orientation program related to security awareness and
18 importing.

19 Taking that one step further, one
20 suggestion that came out was that maybe there be a
21 standard brochure generated on a national level that
22 would give that basic orientation/training and those
23 expectations, that anyone coming on the vessel or
24 anyone going into the restricted areas of the facility
25 be handed as part of their training. So it may be

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1 beneficial to do something on that level.

2 Thank you.

3 MR. FROMMELT: Gary Frommelt with the
4 Passenger Vessel Association. Regarding 104.225,
5 training for other vessel personnel, I support the
6 position stated by the ICCL. I see little benefit on
7 providing security training for outside vendors,
8 contractors that may be on board for limited periods
9 of time.

10 We all have finite resources to deal with
11 enhanced levels of security, and I think we serve
12 security better by not providing training that I see
13 little benefit for in those areas.

14 Thank you.

15 MR. DENO: Stan Deno, International
16 Council of Cruise Lines. And honest, Sue, I really
17 wasn't going to get up again, at least in this
18 section.

19 But I have to make a comment and slightly
20 disagree with one of the first speakers and support
21 one of the more recent speakers concerning the
22 training and qualifications of the company security
23 officer and vessel security officer, and in that
24 support the Coast Guard in what they have put into
25 this IR.

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1 We believe that the Coast Guard has
2 properly outlined the experience and qualifications
3 for these officers and should continue to work with
4 IMO and within the IMO international community on
5 model course approval, STW requirements, and so on.
6 Really, the maritime industry has enough to do between
7 now and 1 July 2004 without getting into requiring
8 certificates and training courses for those officers.

9 Thank you.

10 CDR ENGLEBERT: Thank you for your
11 comments. Seeing no further comments on Subpart A and
12 Subpart B, we are now moving to Subpart C and
13 Subpart D of Part 104, Vessel Security.

14 Subpart C covers vessel security
15 assessments. This includes general requirements, the
16 requirements for what the assessment has to have in
17 it, and also its submission.

18 Subpart D includes the requirements for
19 the vessel security plan. It talks about the format
20 of the plan, the submission requirements and approval
21 requirements for the plan, and any amendment and audit
22 requirements.

23 At this time, I'll open the floor for
24 comments on Subparts C and D.

25 MR. THAREJA: Dinesh Thareja, American

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1 Bureau of Shipping. We are RSOs for several flags,
2 flag administrations, and my question is in relation
3 to vessel security assessments.

4 It appears from your regulation 104.305(d)
5 that vessel security assessment is to be included as
6 part of vessel security plan. Is that a requirement,
7 to include that even after the plan is approved?

8 Our concern is that it contradicts with
9 ISPS Code, and in ISPS Code the plan is -- the
10 security assessment is not required to be on board
11 after the plan is approved. So we would like U.S.
12 Coast Guard to clarify whether vessel security
13 assessment is required to be on board after -- even
14 after the plan is approved.

15 Thank you.

16 MR. KILEY: Ned Kiley, Washington State
17 Ferries. I'd like to comment on Subpart D,
18 104-410.2(d). It also spills over to 105.410 as well,
19 because we own both -- own and operate both vessels
20 and facilities. And it has to do with the approval
21 process for alternate compliance plans.

22 Washington State Ferries fully supports
23 the opportunity and plans to submit an alternate
24 security program for compliance purposes. It will be
25 crafted to fulfill Washington State Ferries' unique

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1 operating and service characteristics.

2 Washington State Ferries understands that
3 the approval of alternate compliance plans is to be
4 granted at Coast Guard Headquarters level. We are
5 concerned that the very aggressive regulatory time
6 constraints and lack of system familiarity or steep
7 learning curve for headquarters personnel, and the
8 logistics challenges associated with the distance
9 between Washington, D.C., and Washington State, will
10 represent an obstacle that will not overcome -- be
11 overcome easily.

12 Accordingly, Washington State Ferries
13 would encourage that either the local captain of the
14 port be able to give approval for operators whose
15 operations are contained exclusively within the
16 captain of the port zone, or the direct involvement of
17 the local Coast Guard federal maritime security
18 coordinator during the approval process.

19 Thank you.

20 CAPT CHOPRA: Good afternoon again. This
21 is Anuj Chopra from Anglo-Eastern Ship Management. We
22 would like to support the comments of ABS, especially
23 on the security assessments, that they are submitted
24 to the RSO, and an approval certificate is inspected
25 rather than they being submitted to U.S. Coast Guard.

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1 This is for foreign flag vessels.

2 We also hope that alternate
3 interpretations in the market regarding submission of
4 security assessments to the Coast Guard by foreign
5 flag vessels is incorrect, and that they only have to
6 be submitted to the RSO and worked on for
7 certification and approval of the plan and getting the
8 ISSC.

9 Thank you.

10 CDR ENGLEBERT: Seeing no further comments
11 on this part, I know that you all think lunch is next,
12 but --

13 (Laughter.)

14 -- it is not, because we have so much to
15 cover that I am going to spend about 20 to 25 minutes
16 on 105 with you, so that we get a little jumpstart,
17 because our hope is at the end of this session today
18 we will have time for people to make comments that
19 they may have forgotten to make during the time
20 period. So we want to have a session at the end, if
21 at all possible.

22 So I'm going to go on to Part 105.
23 Familiar territory? Part 105, Subpart A, General,
24 Subpart B, Facility Security Requirements.

25 Comments on Subpart A should be focused on

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1 things such as definitions, applicability, public
2 access areas, compliance dates, and other things
3 contained in Subpart A. I can see you're already
4 lining up, so that's great.

5 And Subpart B, Facility Security
6 Requirements, includes facility security officer
7 discussions, requirements for drills and exercises,
8 and requirements for security measures, etcetera,
9 etcetera, including additional requirements as laid
10 out for passenger and ferry facilities, cruise ships
11 terminals, additional requirements for certain
12 dangerous cargo facilities, and additional
13 requirements for barge fleeting facilities.

14 So I am going to open the floor for
15 comments on Subpart A and Subpart B of the Facility
16 Security Section.

17 MR. McDONOUGH: Good afternoon. My name
18 is Frank McDonough. I'm the President of New York
19 Shipping Association. We represent the steamship
20 lines and terminal operators in the Port of New York
21 and New Jersey.

22 On behalf of the marine cargo handling
23 industry, which is represented by the United States
24 Maritime Alliance, the Pacific Maritime Association,
25 and the National Waterfront Employers Association, who

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1 collectively handle 97 percent of the containers
2 coming into the country, and a significant portion of
3 the break bulk and row row cargo as well, I would like
4 to note some comments in general with respect to these
5 regulations.

6 We will be submitting formal comments to
7 the docket that address, chapter and verse, what we
8 believe to be the inappropriate shifting of law
9 enforcement functions as was mentioned several times
10 here so far today, particularly in the area of cargo
11 inspections, screening of persons in vehicles, and
12 water patrols. Quite frankly, I left the Marine Corps
13 too many years ago to be jumping into a rubber boat
14 with a machine gun at this time.

15 To private sector vessel and facility
16 operators, these are inappropriate assignment of
17 functions. We believe these functions must be the
18 subject of the area maritime security plan and
19 performed by appropriate government entities. And we
20 have a plethora of them in this Port of New York and
21 New Jersey, and this would also be more consistent
22 with the ISPS Code.

23 As written, the regulations present an
24 unworkable regime that exposed the private sector
25 operators to unreasonable liability.

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1 Thank you. Yes, sir.

2 RADM HERETH: You're going to provide
3 details to --

4 MR. McDONOUGH: Absolutely.

5 RADM HERETH: Okay.

6 MR. McDONOUGH: Chapter and verse.

7 RADM HERETH: Could you just give us one
8 example of the cargo inspection issues?

9 MR. McDONOUGH: We cannot open every
10 container that comes through the Port of New York and
11 New Jersey to inspect it, either going in or going
12 out. And as a matter of fact, that is a Customs
13 responsibility that should not be shifted to the
14 private sector. We do not have the capability to do
15 that.

16 We're perfectly happy to screen passengers
17 that are going onto our passenger vessels. That can
18 be done. But I'm not climbing into the cab of some
19 trucker's truck at one of our gates to find his
20 marijuana.

21 RADM HERETH: I hear what you're saying.

22 (Laughter.)

23 Can you --

24 MR. McDONOUGH: My apologies to the
25 truckers who may be in the room.

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1 (Laughter.)

2 RADM HERETH: I believe you said something
3 about water patrols or waterborne --

4 MR. McDONOUGH: Yes. There is a
5 requirement at certain MARSEC levels for water patrols
6 around the port area, and we're certainly not capable
7 of doing that. However, we have marine police, we
8 have port authority police, we have New York City
9 police, who are very capable of doing those very
10 things, and that's who should be doing them, and that
11 should be addressed in the area maritime security
12 plan.

13 Thank you.

14 RADM HERETH: Thank you.

15 REV VON DREELE: I am the Reverend James
16 Von Dreele. I'm the Port Chaplain to the Port of
17 Philadelphia and Camden, the Executive Director of the
18 Seamen's Church Institute, and I'm also President of
19 the North American Maritime Ministry Association,
20 which is a network of 180 port ministries in North
21 America and the Caribbean.

22 I come before you to comment on Part
23 105.200 and 105.255. Our chaplains throughout the
24 country have had the opportunity to see port security
25 in operation on a daily basis as they go on to ships.

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1 We also see the great disparities in those protocols,
2 and the people who are being affected most by the
3 security are the seafarers themselves.

4 These are the silent partners for all of
5 these rule changes, whose need have been largely
6 forgotten by the -- both government and industry.
7 Vast numbers of seafarers are detained upon their
8 ships, even though they have been cleared by
9 Immigration, FBI, and CIA, because of the local
10 terminal operators.

11 Last February we did a week survey
12 throughout the country to see who has been detained
13 and for what reason, through the Center for Seafarer
14 Rights in New York, and what we found was a very
15 disturbing pattern. The highest amount of detentions
16 was in Houston, where 60 percent of the seafarers were
17 denied leave through the terminals. This included
18 American seafarers as well.

19 In the Port of Philadelphia and Camden, it
20 was about 35 percent, also Americans being detained.
21 The vast majority of these crew detentions were
22 because of security procedures at the local terminal.

23 On the Delaware River in New Jersey and
24 Pennsylvania, we have 10 oil and chemical terminals.
25 Half of those provide access to the seafarers, and

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1 half do not. This has caused a tremendous amount of
2 burden for the seafarers. They are literally isolated
3 onboard ship, and when they come into port they are
4 not allowed to come offshore to do very simple things.

5 If we are to maintain the security on
6 these ships, we must provide for their release from
7 those ships, so they can deal with their basic human
8 needs. From a risk management point of view, you do
9 not want crews that are angry and upset by their
10 living conditions on those ships.

11 What we are afraid of is in these
12 regulations that it will become at the discretion of
13 the terminal operators rather than being mandated by
14 these regulations.

15 RADM HERETH: Reverend, just one quick
16 question. Help us understand your position, then, on
17 the language in 200, .200. You referred to .200 --

18 REV VON DREELE: Right.

19 RADM HERETH: -- and .255.

20 REV VON DREELE: What we're saying is that
21 we want to make sure that this is a mandated
22 regulation to the terminal operators, that they must
23 provide access to land for the seafarers, and they
24 must also provide access to seafarer chaplains to
25 visit those crews.

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1 We do have one terminal that is completely
2 shut down. We can't even see these crew members. And
3 it's a tremendous burden on these men.

4 RADM HERETH: I understand. Thank you.

5 REV VON DREELE: Thank you.

6 MS. GOSSELIN: Can you hear me? My name
7 is Debbie Gosselin. I'm President of Watermark
8 Cruises in Annapolis, Maryland.

9 We operate 12 vessels -- 7 of them are
10 under 25 passengers, 3 more under 150, and 2 more with
11 more than 150 passengers. We've been in operation for
12 32 years.

13 My concern is with the definition of
14 "facility." Apparently, it is anywhere that receives
15 vessels certified to carry more than 150 passengers.
16 We operate at City Dock in Annapolis, Maryland, and we
17 also go to Baltimore Inner Harbor. Both of these are
18 100 percent public access areas.

19 Section 105.106 allows for an exemption of
20 a public access area within a facility but does not
21 provide for a facility which is 100 percent public
22 access and provides access to other T-boats,
23 recreational boaters, and the public in general.

24 Public access is vitally important to the
25 local economy and the success of many small

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1 businesses, including mine. I would urge the Coast
2 Guard to exempt public access areas -- period -- not
3 just within a facility.

4 Secondly, our K-boat, certified for 250
5 passengers, is a luxury charter vessel used for
6 private parties, such as weddings, high-end corporate
7 events, anniversary parties, things like that.

8 In the Chesapeake Bay, we're fortunate to
9 have about 5,000 miles of shoreline with many types of
10 docks. We frequently pick up our guests at private
11 docks, small private marinas, and nonprofit properties
12 such as the Chesapeake Bay Maritime Museum.

13 We may visit such a dock only once. We
14 may visit another five or six times in a season.
15 These entities, which I interpret as being a facility
16 because they receive a vessel certified to carry more
17 than 150 passengers, if forced to make a choice will
18 choose to not allow that vessel to dock there, rather
19 than comply with the burdensome requirement of this
20 regulation.

21 Our vessel -- our one vessel produces
22 about \$600,000 per year in revenue in our small
23 seasonal business, and about \$100,000 in state and
24 local taxes, not including payroll taxes.

25 I would encourage the Coast Guard to

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1 tighten up the definition of "facility" to exempt such
2 docks or at least use their exemption authority in
3 cases such as this.

4 Thank you.

5 MR. CHAMBLISS: My name is Pete Chambliss.

6 I'm with the Maryland Office of Tourism Development.

7 My concerns are with 105.106 -- again, public access
8 areas. In areas such as Baltimore's Inner Harbor and
9 the Annapolis City Dock, as well as dozens of
10 communities along the waterfront around the country,
11 the entire area is a public access area, and numerous
12 docking facilities there handle water taxis, charter
13 boats, diverse recreational vessels, and well as T-
14 and C-boats.

15 Cities have spent millions of dollars to
16 develop and promote waterfront access areas to attract
17 visitors and to encourage recreational maritime
18 business development.

19 Many of these businesses are small
20 businesses. And to restrict the flow of visitors, as
21 well as the access that these visitors have to smaller
22 passenger vessels, will be detrimental to this
23 industry segment as well as to the tremendous economic
24 impact that both these industries have on these
25 waterfront communities.

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1 I would request that the definition of
2 "public access areas" be expanded to include
3 waterfront areas that are already fully open to the
4 general public, and that the passenger limit currently
5 set at 150 passengers be expanded perhaps to 600,
6 which is the average passenger load of a passenger
7 ferry.

8 Thank you.

9 MR. SLAUGHTER: Good afternoon. My name
10 is Bob Slaughter. I'm President of the National
11 Petrochemical & Refiners Association. Our members
12 include virtually all U.S. petroleum refiners and
13 petrochemical manufacturers.

14 And I've come up during Section 105,
15 because most of our concerns involve Section 105.
16 I'll come back during the next section to talk about
17 some specifics on Subparts C and D.

18 The association and our members are
19 absolutely committed to maintaining the security of
20 their facilities against terrorism or other kinds of
21 violence. They join you in that commitment.

22 They wanted me to say that we especially
23 appreciate the good working relationship so many of
24 the members enjoy in working with the U.S. Coast
25 Guard. NPRA and its members believe that federal

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1 security efforts should be conducted by experienced
2 organizations such as yours that have law enforcement
3 intelligence capabilities and security resources at
4 your disposal.

5 They are concerned about maintaining
6 consistency among various federal departments with
7 regard to regulations that affect facility security.
8 They are also equally concerned with maintaining
9 consistency within the Department of Homeland Security
10 itself, with its various offices, because these
11 regulations are so important to our operations as well
12 as to our security.

13 They hope as well to see consistency in
14 the application and enforcement of the rule among
15 several COTP zones. And I've included with my written
16 testimony a map of all the refinery locations in the
17 United States, and you'll see how widely dispersed
18 they are throughout the country. I don't have a map
19 for petrochemical facilities, but it would extend, of
20 course, the breadth of the industry even more. So I
21 commend that map to your attention.

22 We do believe these regulations are good.

23 We do see a need for some changes. We think there
24 are still some concerns about applicability. We know
25 there are -- that are members have. There is some

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1 concern about overlapping jurisdictions as the
2 security regime involves -- evolves.

3 There is a significant majority of our
4 members who would prefer to see a firm line of
5 demarcation limiting Coast Guard authority to the
6 dock. They also would like to see a clear definition
7 of the specific event or events we're trying to avoid
8 or prevent.

9 One specific action, though, that we
10 believe you can take to eliminate some uncertainty has
11 been mentioned by others today. There is a security
12 vulnerability assessment plan developed by NPRA and
13 the American Petroleum Institute, with DOE's Argonne
14 Lab and other expert assistance. And we're hoping
15 that you will consider that and approve that as an
16 alternative security program. We will be offering
17 that for your approval as such.

18 Thank you.

19 CDR ENGLEBERT: I'm going to take three
20 more commenters, this one and two others. So the poor
21 people in the back of the line, you're -- yes, okay,
22 there we go.

23 MR. BROWN: Laurence Brown, the Edison
24 Electric Institute. I unintended tag-team with my
25 partner here from the petroleum side. We also are

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1 energy providers. We operate facilities along many
2 navigable waterways and coastlines. They are coal-
3 fired powerplants, gas-fired powerplants, and nuclear
4 plants.

5 We have in -- just as with the petroleum
6 industry, we have developed voluntary industry
7 security standards working in conjunction with the
8 Department of Energy and the Department of Homeland
9 Security for both -- applicable to both coal
10 facilities and gas facilities.

11 In addition, we have state regulation of
12 those facilities that we have to deal with. In
13 addition, we have mandatory security and safety
14 regulations from the Department of Transportation's
15 Office of Pipeline Safety as well as the Nuclear
16 Regulatory Commission.

17 So that's just a little bit of background
18 on who we are and gives rise to my general comments
19 and our industry's general concerns with this whole
20 proposal.

21 There appears to be -- and I look forward
22 to clarification to the extent we've misunderstood.
23 There appears to be a lack of flexibility, a lack of
24 coordination with other security requirements imposed
25 by the Federal Government or done in conjunction with

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1 the Federal Government, and state authorities as well.

2 There appears to be as well a -- somewhat
3 of a lack of sensitivity to the need for
4 confidentiality for security plans, especially to the
5 extent that those plans are going to be required to be
6 shared with various shippers upon whom we rely for our
7 fuel supplies delivered to our facilities which may
8 potentially be included within the definition of a
9 port.

10 Let me address some of the specifics, but
11 I'll try and keep this fairly quick.

12 Similar to many others, you know, we have
13 a need to make sure that our facilities are not
14 subjected to, as they have been, unannounced security
15 inspections, sometimes by armed personnel, frequently
16 without proper identification, and sometimes even in
17 the dead of night. We just cannot allow that kind of
18 thing to occur.

19 We agree that there is just clearly more
20 time that's needed to comment fully upon these
21 regulations, and also agree very much that there needs
22 to be consistency across the country, because there is
23 right now, even as -- the situation today, a great
24 deal of inconsistency between the applicability of
25 security regulations and standards in the various

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1 ports.

2 Thank you.

3 RADM HERETH: Would you be so kind as to
4 give us a list of what those requirements are? A
5 brief list, if you will.

6 MR. BROWN: Well, at this point, I'm not
7 able to do so. But we will be filing written
8 comments, and so I'd be more than happy to do that at
9 that time.

10 RADM HERETH: Okay. Thank you.

11 MR. RUBIN: Good afternoon. Mike Rubin,
12 Florida Ports Council. I wanted to follow up on the
13 definitional request, and hopefully this is just more
14 of a clarification or perhaps a recognition.

15 There is some language in the interim
16 rules that speaks to facility security officers for
17 more than one facility. It speaks to assessment for
18 more than one facility. Again, in Florida, we have
19 public ports that are landlords for more than one
20 facility.

21 They have created a plan for that entire
22 public port, which includes law enforcement personnel,
23 which includes sometimes water -- local law
24 enforcement personnel. We have waterside enforcement,
25 which right now some of our state folks are doing.

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1 And we would hope that the regulations would
2 recognize, maybe that's the right word, or perhaps
3 define that, so that the captain of port can use that
4 entire public port plan, security plan, for compliance
5 with all of those tenets and with all of those
6 facilities within it.

7 Thank you.

8 MR. BRECHEN: Good afternoon, Admiral. My
9 name is Mike Brechen. I'm with LASH Corporation and
10 Seaport Terminal Services of Kodiak, Alaska. And we
11 haven't recently been too worried about security,
12 because our next-door neighbor happens to be the Coast
13 Guard, and they're only a half a mile away. So we
14 find these new regulations a bit onerous.

15 As a small terminal operator, we are
16 wondering if there is a possibility to get an
17 exemption based on the number of containers and where
18 the cargo is ultimately bound for. Most of our
19 product is exported westward to the Orient. Being
20 fish, we ship very little product that goes back to
21 CONUS.

22 And the requirements for a terminal
23 security officer or facility security officer in a
24 security plan are onerous, because we haven't found
25 anyone yet who is willing to consult to write one for

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1 us. It's not something we normally have had to do in
2 the past.

3 We'd also like to request that you extend
4 the comment period for another 30 days, so we have
5 enough time to get our comments all in writing.

6 Thank you.

7 RADM HERETH: Thank you.

8 CDR ENGLEBERT: Okay. Thank you.

9 We will resume this 105 -- before you go
10 flying off, let me remind you, one, if you intend to
11 submit a written document, I plea that you put it in
12 the box now, so we can expedite your docket entry.
13 And don't forget to put what docket number and your
14 name clearly on the written statement.

15 Also, if you're with the media, I ask you
16 at this time to go to this side of the stage, and you
17 see Jolie is right there. Please, Jolie has some
18 information for you, and we request that you go and
19 talk to Jolie.

20 Lunch will be one hour. We will resume at
21 1340. Thank you.

22 (Whereupon, at 12:40 p.m., the proceedings
23 in the foregoing matter went off the
24 record for a lunch break.)
25

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:44 p.m.)

CDR ENGLEBERT: All right. Good afternoon. Hopefully you all had a break. I know that we managed to have a little bit of a break.

So we're ready to resume comments on facility security, Part 105, and I will continue to talk right over you, because we have quite a bit of comments that we still need to receive.

And with that, I will reopen the floor to comments on Part 105, Subpart A and Subpart B -- Subpart A, General, Subpart B, Facility Security Requirements.

First speaker, please.

MR. EGLINTON: Good afternoon. I'm Bill Eglinton with the Seafarers International Union. And we would like to align our comments with the Reverend from the Seaman's Church, first off.

The preamble to the ISPS Code succinctly addresses shore leave for mariners. I'm afraid the interim rule does not adequately address that issue. It talks about ensuring coordination for shore leave, and my first recommendation is that it should say "ensures shore leave for mariners."

For the last several years, there's been a

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1 lot of talk in the industry about mariner recruitment
2 and retention. There's been efforts by the Coast
3 Guard, MARAD, Military Sea Lift Command, the
4 operators, labor, to try to promote recruitment and
5 retention. And I'm afraid if shore leave is denied to
6 mariners, U.S. mariners in particular, we're going to
7 have a real problem with our fourth arm of defense.

8 A U.S. mariner who has been outside the
9 country for two or three months, he's looking forward
10 to getting off that ship in the first U.S. port to get
11 a decent haircut, to get some reading material,
12 because he's been reading the labels on the back of
13 ketchup jars for the last two weeks, and, more
14 importantly, he wants to call his family.

15 And if you're being denied getting off
16 that ship, then there they go. I wouldn't be out
17 there if I couldn't get off the ship.

18 Thank you.

19 MR. SERRILL: I'm Jim Serrill with the
20 Port of Seattle. First of all, I'd like to endorse
21 the comments made by Hal Hudgins of the Alabama Port
22 Authority on clarification of the term "owner-
23 operator." His comments referred to other parts, but
24 it's also applicable to Part 105.

25 Secondly, I'd like to make a positive

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1 statement on Section 105.106, which is a very workable
2 solution for ports and other entities that provide
3 docks, piers, floats, for the irregular or
4 intermittent use of small passenger vessels.

5 And, third, I'd like to ask for some
6 clarification under 105.105(a)(2) and ask you to take
7 a look at that particular wording. The reason being
8 is that that particular wording seems to imply a
9 facility plan is required for a passenger vessel even
10 though the passenger vessel is not in active passenger
11 service, in lay-up, in service, or in repair.

12 And that does not seem to be consistent
13 with other parts of the regulation, particularly
14 105.106, where it talks about facilities servicing
15 passenger vessels.

16 101.105, which defines a passenger vessel
17 that is actually carrying passengers, implying that
18 when it's not carrying passengers it wouldn't have to
19 be classified such.

20 And then, back on page 39247, which is a
21 discussion of the N-RAT, which talks about passenger
22 vessels and refers to the potential loss of life and
23 the catastrophic results from loss of life versus a
24 vessel that's not in active passenger service.

25 Thank you.

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1 MR. WILLIS: Good afternoon. My name is
2 Larry Willis. I'm General Counsel with the
3 Transportation Trades Department of the AFL-CIO. In
4 relation to section -- to Part 105, we would make a
5 couple of points.

6 One is that we support the intent of the
7 Coast Guard in promulgating Section 105.265 that in
8 our view correctly requires facility owners or
9 operators at MARSEC Level 1 to check the seals on
10 container doors to ensure that they have not been
11 tampered with.

12 We would hope that this requirement would
13 be implemented as soon as possible at all ports and
14 facilities. If it cannot be implemented immediately,
15 then alternative ways to check the seals on containers
16 and container inspection in general.

17 Related to that, we would ask that the
18 regulations ensure that containers marked as empty
19 also be opened up and inspected by the workers of the
20 ports. This is an issue and the seal inspection is an
21 issue that was discussed at length at yesterday's
22 Coast Guard hearing.

23 In the House Transportation Committee,
24 Congressman Bob Filner, the ranking member of that
25 committee, and others noted this issue, and we would

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1 hope that that would be included in the final regs.

2 I would also note on the training -- or
3 the exercises under 105.220 we would say that we
4 conducted at least one per calendar year, no more than
5 18 months. These should be physical field exercises
6 and not just tabletop exercises.

7 We will be submitting more extensive
8 comments by the July 31st deadline.

9 Thank you.

10 MR. DENNEY: Good afternoon. My name is
11 Rupert Denney, and I'm General Manager of a company
12 called C. Steinwig. We are a private terminal
13 operator and stevedore in the Port of Baltimore. I'd
14 like to comment on Part B, 105.230.

15 Recognizing the language says "which may
16 include," we have some concerns about the use of
17 waterborne security patrols and armed security
18 personnel. I think it would be worth having a look --
19 taking a legal opinion apropos the terminal operators'
20 jurisdiction in the water that surrounds their
21 facility.

22 We own -- our riparian rights extend into
23 the Patapsco River, although the -- as I understand
24 it, the public at large is allowed to traverse that
25 property, the water part of the property, at their

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1 liking. It's part of the state domain.

2 So if we had a water patrol, or were
3 expected to have a water patrol, what would we be
4 patrolling? If we were in the public arena, we would
5 not want to take responsibility and the liability that
6 follows that. So I think it may be worth a legal
7 opinion.

8 I'd also like to reiterate the
9 conversations or the remarks made by the gentleman
10 from the New York Shipping Association. We are
11 adamant that we do not want to be involved in
12 contracting armed personnel on our properties. Many
13 of the people you've spoken to this morning are state
14 and public entities, and they have limited liability
15 in that respect.

16 We are private terminal operators. We are
17 the classic deep pocket operation. We can see
18 somebody getting shot, killed, maimed, in error or
19 with intent, and then we're basically going to involve
20 ourselves in massive lawsuits for no reason.

21 We had a similar situation in the mid-
22 Atlantic a year ago when the old INS asked us to put
23 security guards, armed, at the foot of the gangplank
24 on certain vessels, on private terminals and public
25 terminals. We said to INS, "That's fine. But at what

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1 point do you want us to open fire, and who is taking
2 responsibility for that?" No answer, thank heavens.

3 But my view is the same as the gentleman
4 from the New York Shipping Association. Armed
5 protection is something for the state and federal
6 entities to look after. I don't think it's
7 constructive to have armed militia wandering around
8 the ports.

9 RADM HERETH: I'm sorry. Could you point
10 out to what section you're referring?

11 MR. DENNEY: With regard to Part B,
12 105.230, on page 39326.

13 RADM HERETH: And this is under a certain
14 MARSEC condition?

15 MR. DENNEY: Three, apparently.

16 I'd like to make one more comment briefly.

17 I'm not quite sure of the subpart or the part. There
18 was a conversation this morning about vendors getting
19 onto the vessels and the need to have certain security
20 arrangements or be part of the vessel security plans.

21 I think this would be counterproductive.
22 I think it would be difficult to enforce. If the
23 Coast Guard wanted to pursue that, I would suggest
24 that possibly the regular vendors who serve the ships
25 in various ports register with the local COPT and get

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1 approval to go on the ships at will. And the local
2 agency community is advised about that, so they know
3 that certain people like linemen and chandlers can go
4 on the ships.

5 Thank you.

6 MR. KICE: My name is Mike Kice. I'm with
7 P&O Ports. We're a marine terminal operator and
8 stevedore from Maine to Texas and internationally.

9 My first comment is on page 39319,
10 Subpart A, Submission and Approval of Security Plans.

11 Security plans must be reviewed by Coast Guard every
12 time. And then a question I have is -- or a comment
13 would be failures are identified during an exercise of
14 the facility security plan.

15 Exercises are purposes to find ways of
16 improving things that you have done, and, therefore,
17 an improvement is developed based upon these minor
18 issues that can come out of it. If we are going to
19 have to resubmit our plan every time we find a smaller
20 type failure, we may not just define them from a pure
21 logistics viewpoint.

22 So we may want to add a comment there of a
23 major significant failure process with that, if you
24 want the document to be a living document versus an
25 on-the-shelf, fill-in-the-check-mark.

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1 Then, my next comment is on 39324, B,
2 105.205(a)(2), concerning the facility security
3 officer having a jurisdiction basically of greater
4 than 50 miles. We operate in Texas where our major
5 management center is in Houston, and we operate in
6 Corpus, Beaumont, areas that are greater than 50
7 miles.

8 We operate in New England, out of Boston,
9 and we go to Portland, Maine, to Providence, greater
10 than 50 miles. And we are able to do all of our
11 managerial processing even though it's greater than 50
12 miles. So by limiting us not to be able to use the
13 same facility security officer for Corpus to Beaumont
14 based upon these 50 miles would be very detrimental, I
15 believe, and probably not the intention of what you're
16 trying to do, because we want to have greater security
17 operations, and that type of thing.

18 Thank you.

19 MR. HAZZAN: Mike Hazzan of AcuTech again.

20 Admiral, with all due respect, the applicability
21 section of this part is not user-friendly. It makes
22 multiple references, cascading references to existing
23 DOT regulations and other documents to figure out
24 which materials might be covered or make a facility
25 applicable.

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1 I would ask the Coast Guard to simply list
2 them. If it gets too awkward, if the list is too
3 long, to use an appendix or some other publishing
4 method, but to not use these cascading references,
5 which makes it very difficult to determine.

6 Additionally, in the preamble, which
7 addresses this section of the regulation, it says, and
8 I quote, "The MTSA is broader and permits direct
9 regulation of any vessel and facility that may be
10 involved in a transportation security incident as that
11 term is broadly defined. This could include those
12 facilities and infrastructure not traditionally
13 regulated by the Coast Guard, such as facilities that
14 do not have accommodations for vessels but are
15 nonetheless on or adjacent to water subject to the
16 jurisdiction of the United States."

17 It goes on to say, several sentences
18 later, "Therefore, the interim rules published today,
19 especially the applicability sections of Parts 104,
20 105, and 106, do not exhaust the types of vessels and
21 facilities that might be regulated or may be regulated
22 under the MTSA."

23 And I would ask the Coast Guard to clarify
24 and expand these rather open-ended comments as soon as
25 you possibly can, so we can figure out exactly where

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1 the captain of the port is going to go with this.

2 Thank you.

3 MR. VOLKLE: Hello. I'm Skip Volkle from
4 Maritrans. I just wanted to reiterate my comments
5 with respect to the vessel plans, reiterate them with
6 respect to facilities, and echo the comments that
7 address the requirement to provide armed security and
8 floating security in basically our many Coast Guard
9 facilities.

10 At a minimum, if the Coast Guard is going
11 to require us to provide our own Coast Guard, you
12 should provide at least rules of engagement and limits
13 of liability, so we know when these guys can open
14 fire, and what they are supposed to be doing, and what
15 kind of law enforcement authority they might have on
16 the waterways.

17 I'd also like to echo the comments of SIU
18 and Seaman's Church with respect to providing access,
19 or a requirement to provide access through facilities
20 for seamen and vendors. We are having substantial
21 problems being able to, for example, do crew changes
22 of our vessels.

23 They are U.S. seamen, long-standing
24 employees, licensed and documented by the Coast Guard,
25 and the facilities won't let our crews get through the

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1 facility to get on board the vessel and take the old
2 crew off.

3 We are in a position where we can't get
4 vendors on to do repairs to a vessel. We can't send
5 the cook downtown to get chow to bring back to the
6 vessel, so that the vessel can continue to operate,
7 and we find ourselves having to anchor out, hiring
8 launch services, delaying the vessels, creating all
9 kinds of other vessels going back and forth, and we
10 think, you know, it -- further creating a safety and
11 security problem.

12 So we would ask that the Coast Guard put a
13 requirement in that facilities do provide for access.
14

15 I think the previous comment had said
16 something about registering with the captain of the
17 port to provide, certainly in the interim, before the
18 TWIC cards come out, some kind of a vetting by the
19 captain of the port, so that you get on your list, and
20 these vendors and chandlers and suppliers can get on
21 facilities to supply vessels would be extremely
22 helpful.

23 MR. McLAUGHLIN: Lindsay McLaughlin,
24 International Longshore & Warehouse Union. I want to
25 agree with Larry Willis of the AFL-CIO that as a cost-

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1 effective alternative to 100 percent inspection of
2 customs inspections of containers that the interim
3 rule requires facility owners and operators to check
4 the seals on container doors to prevent tampering of
5 containers upon entering the facility and upon storage
6 within the facility, and look at the seal so that it
7 matches up with the cargo documentation.

8 However, we're a little perplexed that the
9 rule is silent on the security of empty containers.
10 Our union contends that empty containers pose a
11 security risk, because it is easy to open the doors of
12 an empty container and place unwanted cargo in the
13 container. Therefore, we request that the rule also
14 mandate the interior inspection of all empty
15 containers.

16 Finally, I'd like to agree with some of
17 the comments about giving foreign seafarers shore
18 leave. That's a very important humane thing to do.
19 But I'd also -- I hope I -- forgive me if I'm in the
20 wrong section. But I've heard of ITF inspectors,
21 International Transport Workers Federation inspectors,
22 who have a very important job of ensuring that
23 seafarers are not mistreated, that there's humane
24 treatment, and that they get paid, being denied access
25 to vessels and to crew. And that should never happen.

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1 So in whatever part of the rule, we need
2 to make sure that these people are credentialed to
3 have access to the vessels and the crew to ensure that
4 these foreign seafarers are not mistreated.

5 And, finally, we have about seven days I
6 guess to comment on the interim final rules. We would
7 strongly urge the Coast Guard to extend that, so that
8 we have more time to consider this voluminous
9 document, which is I think well crafted. But what we
10 need to do is to go to longshore workers in the field
11 and to get more ideas on how practically this is going
12 to work.

13 Thank you.

14 MR. DAVIS: Good afternoon. I'm DeWitt
15 Davis of the Marine Section of the National Safety
16 Council. I want to express a concern about the kind
17 of separate plans when we're talking about facility
18 arrangements today -- this section. But it seems that
19 the plans for the vessels go one place, and the plans
20 for the facilities go another, and hopefully they'll
21 get together somehow.

22 It seems like there are a lot of cross-
23 connections that need to be made to make things going.

24 In that regard, the National Safety Council, at its
25 National Congress, we are going to have a workshop on

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1 coordination of vessel and facility plans, and also
2 the coordination of resources. In the safety field,
3 we already have well-established organizations at many
4 of the facilities, and also the shipping and vessel
5 companies have significant efforts already going on.

6 We see that in order to reduce redundancy
7 in assessments and a whole lot of things that we need
8 to have a good coordination between safety and
9 security functions. Our workshop will be in September
10 in Chicago at the National Safety Congress.

11 Thank you.

12 MR. KILEY: My name is Ned Kiley from the
13 Washington State Ferries. I don't know quite how to
14 interpret the fact that the lunch break took place
15 just as I was approaching the microphone, but I'll
16 press on anyway.

17 This comment regards Subpart A,
18 Section 105.115, and also spills back over to 104.115,
19 because of the fact we are a system using vessels and
20 terminals. It has to do with the regulatory
21 compliance timeline.

22 Washington State Ferries will find it
23 extremely difficult to put in place all of the
24 security measures envisioned by the regulations across
25 our system in the time allotted. An example would be

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1 because of the open nature of our system, our 20
2 terminal facilities lack many of the physical elements
3 of an effective access control system.

4 We cannot simply divert our current
5 operating and preservation budget to fund new security
6 measures, especially since we are just given a two-
7 year budget by the state legislature, and that's our
8 budget for the next two years.

9 Even if funding did exist, obtaining the
10 necessary permits across 20 counties -- rather, 20
11 cities, 7 counties, state and federal jurisdictions --
12 represents a huge challenge with stiff resistance to
13 the fences and gates that we might want to put in
14 place, especially by the business owners and
15 communities.

16 Accordingly, Washington State Ferries
17 plans to submit an alternate compliance plan that we
18 believe satisfies the intent of the regulations, and
19 in conjunction with that a timeline for implementation
20 that we believe is attainable and addresses the
21 security measures in appropriate priority ranking.

22 Thank you.

23 MR. COTTER: Jerry Cotter with Port of
24 Corpus Christi, and a couple of comments. The first
25 one has to do with compliance dates in the audit as

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1 called for in 105.415. We'd like some clarification
2 on personnel doing the audit, because it says
3 specifically that people associated with the plan
4 can't do the audit. Clarification on who can do the
5 audit, who should perform that, the qualifications for
6 that.

7 Another one is in Section 105.115, which
8 is it's unclear to us about the compliance date. If
9 we submit the compliance dates -- or the security plan
10 in for approval, and it requires a lot of
11 construction, installation, and other types of things,
12 will it -- I shouldn't say it as a question, but the
13 meeting of that deadline of July 2004 may not be made.

14 There needs to be an exception to allow the
15 completion of the project past 2004. Thank you.

16 MR. KILLAR: Good afternoon. I'm Felix
17 Killar. I'm with the Nuclear Energy Institute. I
18 represent the nuclear power companies, as well as the
19 facilities that produce the fuel that go into nuclear
20 power that are located throughout the country. We
21 produce 20 percent of the electricity that is produced
22 in this country from nuclear power.

23 Most of our facilities, as far as the
24 nuclear powerplants, are adjacent to navigable
25 waterways. We've done this for the cooling source but

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1 also for transporting the large components to our
2 facilities, and what have you. And as such, we fall
3 under 105 or 101.

4 What we're looking for is clarity between
5 105 and 101, and what our concern is is that we have
6 security plans of this, and now the third federal
7 agency is asking us for a security plan. We have
8 security plans that are required from the NRC on
9 10 CFR Part 73.

10 We have security requirements by
11 Department of Transportation, which just came in
12 effect March 25th of this year, and now this, again,
13 is the third level. We do appreciate if you guys
14 would coordinate.

15 You do have the alternate programming
16 here, but it is not clear to us how to apply the
17 alternate program, because under 105.105 you allow for
18 provisions of 101.120, but then you also have 105.140,
19 which refers to 120 but has some additional
20 requirements.

21 And so we go under 105.140 or 101.120,
22 because of the changes in additional requirements to
23 provide security plans. And so we need to get some
24 clarification as to what form you want this in. Our
25 preference is 120. We will provide written comments

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1 as well.

2 MR. BAILEY: My name is Jim Bailey. I
3 represent federal marine terminals down at the Port of
4 Richmond, Virginia, and I have a few comments to make.

5 I would first like to echo the comments made by the
6 gentleman from Maritrans and others who have expressed
7 their concerns over the armed and floating security
8 wording that's in the interim rules.

9 Going on from there, a small port such as
10 the Port of Richmond, we were fortunate enough to get
11 a TSA security grant in this last round of grants,
12 which we were very grateful for. And in terms of how
13 we're going to go about spending that, we're going to
14 be relying on RSOs to come in and help us do
15 assessments, write the plans. And the duplication of
16 efforts is between the DOT HM-232, Customs C-TPAT, and
17 other things that we fear might be coming down the
18 road at us.

19 We'd just ask that the Coast Guard be
20 mindful of those things and try and include the
21 feedback from smaller inland ports such as ourselves.

22 Thank you.

23 MR. BYERS: My name is Tom Byers with
24 Williams Energy Partners. We own 67 refined products
25 terminals. Several of those are marine terminals,

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1 which are subject to these regulations. And so we
2 appreciate the opportunity to make some comments.

3 We clearly support the efforts of the
4 Coast Guard to develop these rules, the various
5 requirements that are there, the training, the
6 security assessments, etcetera. We do think it would
7 be helpful to have a little bit of clarification on a
8 couple of issues.

9 The preamble indicates that the facility
10 security officer can be a collateral duty position.
11 The reg itself states that the FSO may perform other
12 duties besides that, and there are no specific
13 qualifications or requirements that I'm aware of as
14 far as the training.

15 However, at least one individual --
16 security individual within our organization is of the
17 opinion that because of the numerous competencies that
18 are listed in 105.205 -- about 20 of them I think --
19 he is of the opinion that a strict interpretation of
20 this would require a "security official" or a security
21 professional.

22 It's my understanding, really, that what
23 the Coast Guard is looking for is a competent
24 individual to perform these duties. For large port
25 facilities, hiring a security professional may not be

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1 a major problem. But for a small marine terminal that
2 is safely and effectively operated by a handful of
3 individuals, hiring somebody just for this could very
4 well be a problem.

5 And it's magnified by the fact that of the
6 several marine terminals we do have, all of which are
7 more than 50 miles apart, that would arguably require
8 a separate security professional at each one of these.

9 We would ask the Coast Guard to add some
10 clarification to express what I believe is your intent
11 that it would be a competent individual, that it would
12 be not only a collateral position but it clearly could
13 be someone who clearly is now in the management team
14 at the terminal, that in addition to the duties
15 they're doing now they could also perform the security
16 work, make sure the security assessments are done, the
17 plans are implemented. Again, obviously we wouldn't
18 be hiring these people in the first place if they were
19 not competent.

20 The only other comment I have is as far as
21 the plan itself -- maybe I'm getting over into -- I
22 will stop there.

23 Thank you.

24 MR. POLITTE: Eric Politte, Response
25 Management Associates. Admiral, as you know, we

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1 support several hundred bulk fuel petroleum product
2 terminals around the country. In that context, I have
3 some additional questions that really go back to the
4 applicability in some of the definition questions.

5 105.105(4) essentially points -- a
6 circular reference back to 101 and 103 for those
7 facilities that don't fit the top three definitions.
8 In that context, the definition of "facility adjacent
9 to" and those that are under lead us to some
10 uncertainty as to what facilities may have to go back
11 to 101 and 103 for applicability.

12 And then, if we go back to 101 and 103 for
13 applicability, what then is required of those
14 facilities from a security planning standpoint?

15 Also, from a compliance dates standpoint,
16 it's my understanding that plans are due to be
17 submitted by -- to the Coast Guard by December 29th.
18 A client asked me to get into the docket. He had
19 heard at a public forum that plans were to be
20 submitted in time to be approved by December 29th. I
21 don't believe that's the case and request
22 clarification.

23 Also, to echo an earlier comment about
24 compliance dates for implementation -- facilities to
25 be in compliance with their plans by June 30, 2004, is

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1 not practical for a number of facilities that have a
2 number of implementation items to budget for, to get
3 permits for, and to install.

4 What I'd recommend is acceptance of an
5 implementation schedule that would then be reviewed
6 and approved by the captain of the port.

7 I have one more, and I've got to remember
8 what it is.

9 Security training -- this was mentioned
10 earlier in discussion, I think in 104, for some of the
11 vessel contractors. I'll reecho the comments made
12 there. For contractors that enter a facility -- and
13 I'll go to an extreme -- let's say a food vendor or
14 caterer perhaps comes into the facility. Certainly,
15 he doesn't need to have plan training, training at all
16 levels specified in the rule.

17 What we'd suggest is perhaps some
18 language, either excluding personnel who are
19 accompanied in the facility, or specifically including
20 personnel who are unaccompanied in the facility.

21 Thank you.

22 MR. WILLIS: Larry Willis again with the
23 Transportation Trades Department, AFL-CIO. Just to
24 supplement my comments earlier, we would -- on
25 Section 105.260, we're concerned that as written, this

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1 is restricted areas, that it would result in areas of
2 a facility being deemed restricted when legitimate
3 security reasons would dictate that that may not be
4 the case.

5 In particular, a facility owner or
6 operator may designate the entire facility as
7 restricted area without showing, again, any direct
8 need for security to do so.

9 The requirements listed, that there are
10 areas that must be a restricted area, include some
11 things we support, but then there are some definitions
12 that would be circular in nature. For example,
13 locations in the facility where access by vehicles and
14 personnel should be restricted, a complete circular
15 definition, and could lead to some unintended results.

16 Thank you.

17 MR. SKELTON: Good afternoon. My name is
18 Ray Skelton. I'm the Director of Security for the
19 Duluth Seaway Port Authority. Good to see you.

20 Commander, good to see you again. I
21 expect to see you up as OCMI one of these days back in
22 Duluth. She was Executive Officer for Marine Safety
23 Office for a couple of years. Then she ran away on
24 us.

25 Just a couple of comments. Naturally, the

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1 Coast Guard did an outstanding job, as they usually
2 do, in a very short timeframe. As a matter of fact,
3 we had absolutely no problem whatsoever with anything
4 in this until we got to Subpart A, General
5 Applicability.

6 (Laughter.)

7 From then on, we ran into a lot of
8 problems.

9 (Laughter.)

10 CDR ENGLEBERT: That was a little northern
11 humor.

12 (Laughter.)

13 MR. SKELTON: Facilities that receive
14 vessels, etcetera, etcetera, and facilities that
15 receive vessels on international voyages, including
16 vessels solely navigating the Great Lakes.

17 Port of Duluth is the largest of the Great
18 Lakes ports. We handle primarily bulk cargoes --
19 stone, iron ore, salt, on down the line. When the
20 original discussions were taking place on facility
21 security, risk was one of the primary factors.
22 Indeed, we went through the vulnerability, threat, and
23 consequence analyses. And our facilities just don't
24 meet that kind of cut.

25 However, when we get to applicability,

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1 that's us, every one of the facilities. What I would
2 submit on that basis is that an international voyage
3 be classified as terminating at Messina, New York,
4 because if we're going to have a problem it's going to
5 happen prior to or at Messina. Once they're into the
6 Great Lakes system, they are quite isolated, many
7 inspection points. The likelihood of an incident is
8 slim to none.

9 Secondly, the requirements for facility --
10 are we just on Subpart A, or are we doing Subpart B at
11 the same time?

12 CDR ENGLEBERT: B also.

13 MR. SKELTON: Okay. The requirements for
14 facility security are very, very extensive,
15 comprehensive, and, in the case of a bulk terminal,
16 excessive. We don't have the types of cargoes handled
17 at our port that would require security.

18 I started gabbing too much, didn't I?

19 Okay. At any rate, we feel that they are
20 quite excessive. As a matter of fact, we had a little
21 thing made up that'll be in the comments section. And
22 for those of you that can't see it, these are our
23 Great Lakes self-unloading ships unloading a pile of
24 salt, and the sniper is on there. And the quote is,
25 "Sleep well tonight. Your aggregates are safe."

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1 (Laughter.)

2 We'll be submitting written comments. In
3 addition -- but additionally, we would suggest that
4 those -- if we're going to be implementing extreme
5 security measures at bulk ports that we can certainly
6 have plenty of personnel provided by the TSA, more
7 popularly known as "Thousands Standing Around,"
8 because they've got plenty of people who --

9 (Laughter.)

10 MR. CORIGLIANO: Good afternoon. My name
11 is Ron Corigliano. I'm with Campbell Transportation
12 Company and C&C Marine Maintenance Company. We
13 operate some facilities for barge repair, and also we
14 have vessels towing on the rivers.

15 One of my concerns is is for
16 Section 105.296, Additional Requirements for Barge
17 Fleeting Facilities. With respect to the barge
18 fleeting facilities, the language should include in
19 Section 105.296(a)(1) that the -- that says that
20 barges with CDCs, D, and O cargoes, should be
21 segregated as appropriate.

22 An example would be when a barge is in a
23 fleet for an extended period of time, and this is --
24 and also, it is not practical to keep tank barges
25 segregated when trying to assemble or break down a

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1 mixed tow.

2 Another example is if we're prebuilding a
3 tow for another vessel coming up to pick up a 20-barge
4 tow, it could have dry cargo mixed in with the tank
5 barge itself. And, therefore, it would be not
6 practical to try to keep it segregated at that time.

7 Also, the Coast Guard needs to clarify in
8 Section 105.296 to read that the one towing vessel
9 must be available to service the fleeting facility for
10 every hundred barges carrying CDC, D, or O cargoes.
11 The Coast Guard should revise Section 105.296,
12 additional requirements, barge fleeting facility, so
13 that the actions taken at MARSEC 1 level affect only
14 CDC barges.

15 The actions taken at MARSEC 2 and 3 should
16 include that all barges carrying D and O cargoes --
17 this would parallel the language in other sections of
18 the interim rules to apply protective measures first
19 to CDC cargoes, then to D and O cargoes, at elevated
20 MARSEC levels.

21 Thank you.

22 MR. DENO: Good afternoon. Stan Deno,
23 International Council of Cruise Lines. I just wanted
24 to add one more voice from also the ship-owning side
25 concerning mariner shore leave, and possibly also a

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1 little different perspective.

2 We believe that this issue was raised in
3 the previous public forums to highlight a concern with
4 the Federal Government agencies responsible for
5 permitting mariner shore leave and service provider
6 access to the ships as in treating -- we believe that
7 in the past, recent past, they've been treating all
8 mariners as potential terrorists instead of
9 professionals, just the same as they treat aircrew on
10 international flights.

11 Each of our crew on ICCL vessels is
12 already processed through the U.S. State Department
13 visa vetting process, because they all have individual
14 visas to enter the United States. And they are still
15 denied shore leave when the vessels are in port.

16 We think that in the IR the discussion on
17 this point that it was turned back around onto the
18 ships and the facilities to provide this access when
19 the initial comment was made to highlight the Federal
20 Government's responsibility to ensure that access to
21 those legally allowed to come into the United States
22 have that access.

23 Thank you.

24 MR. ROEBER: Admiral, ladies and
25 gentlemen, I'm Jim Roeber, United States Power

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1 Squadrons, America's Boating Club. I'd like to
2 support the comments made before lunch by Mr. Peter
3 Chambliss of the Maryland Department of Business
4 Economic Development regarding public access areas in
5 Section 105.106.

6 With a very broad definition and broader
7 -- all-inclusive definition of "facility" in 101.105,
8 it is important that the Coast Guard clarify the
9 definition of "public access area" to clearly cover
10 recreational boat marinas and anchorages, launch
11 ramps, common small boat rendezvous areas, city center
12 docks such as Baltimore or Lake Union in Seattle.

13 America's 70 million recreational boaters
14 will, I believe, support increasingly higher security
15 rules at higher MARSEC levels, so long as those rules
16 are reasonable for the small boater and so long as
17 they are understandable by the small boater.

18 Thank you.

19 MR. PRAZAK: My name is James Prazak with
20 Dow Chemical. My first comment relates to the vessel
21 access and shore leave. That has come up several
22 times. I guess my first point, I have to say we do
23 support the need of the seafarers to come off the
24 ship, and other people to come in and go aboard the
25 ship. We know that's important for their welfare and

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1 their well being and support that.

2 I know from our standpoint we've written
3 our security plans that we have in place right now to
4 allow for that. We just put certain limitations and
5 requirements on how we handle that, so that we can
6 manage it.

7 On the flip side of that, though, there is
8 a balance that needs to be done. From our standpoint,
9 we do restrict access to certain people who pose a
10 risk. Recent example -- we had a gentleman that came
11 in, was on top of one of our shore tanks to do some
12 work. Rather than climb down he decided to throw all
13 of his equipment over the side of the tank.

14 And had someone been down there, or had he
15 hit the equipment, we could have had a fire and the
16 guys would have been trapped on top of the tank. It
17 could have been nasty. And that gentleman is no
18 longer allowed. I don't care if he has a TWIC card or
19 what. He is not coming back onsite, because he's a
20 safety risk.

21 And the same thing goes -- if someone is
22 not willing to follow the rules, we need to have the
23 right to say, "You can't come in."

24 Now, one of the solutions -- I guess one
25 of the thoughts I have is that I know that the Port of

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1 Houston-Galveston has worked on this whole issue, and
2 maybe it's an opportunity to work on a broader
3 national scale to come up with some guidelines that
4 say here's some alternatives.

5 Here's some processes that companies can
6 put in place in order to facilitate this access,
7 whether it be preapproving certain people who need to
8 have access, so that they're on a list that's always
9 maintained, they have the right training and
10 orientation, maybe it's allowing taxis that are
11 preauthorized to come in to pick up people, drop them
12 off, whatever. But, you know, develop that list of
13 guidelines.

14 And then, if there is a particular
15 facility that is not abiding, the captain of the port
16 can go work with that individual facility to go sort
17 through that issue.

18 So the second comment I have is on
19 105.230(b)(1), and this is the 96-hour notification
20 requirement whenever MARSEC level is increased, where
21 the facility owner-operator is supposed to contact the
22 vessels that are due to call in within 96 hours.

23 It's impractical from a facility owner
24 standpoint to always be able to handle that. In many
25 cases, our first -- all of our dialogue with the

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1 vessel is really to the vessel agent, and in some
2 cases we don't even know where the vessel is going
3 until it shows up. Sometimes ships are sitting off
4 shore waiting for cargoes, they're waiting -- they're
5 juggling their schedule, or whatever the case may be.

6 And so we don't know necessarily 96 hours in advance.

7 The question about secure communications
8 -- you know, do we want to go over VHF and start
9 telling them what our security level is, and get into
10 some of those details -- may be a little bit of a
11 problem.

12 I guess the key of the suggestion I have
13 is that rather than say 96 hours, maybe say as soon as
14 practical, and preferably 96 hours or so, but give us
15 some latitude so that, you know, whenever that first
16 communication is, we usually try to go to the agent
17 and tell them what's going on so they know in advance.

18 But I'm saying 96 hours may be tough for us to truly
19 abide by, if that's what's expected.

20 Thank you.

21 MS. COLE: I'm Lynne Cole. I'm with the
22 Independent Liquid Terminals Association. Our members
23 are owners and operators of the for-hire bulk liquid
24 terminals, many of which are marine facilities.

25 I think most of our members recognize the

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1 importance of allowing mariners shore leave and access
2 for repair persons, and those kinds of individuals to
3 the ships. What I need to ask the Coast Guard to keep
4 in mind is that those rights of those individuals in
5 the ships do not supersede the rights and
6 responsibilities of the owners and operators of
7 facilities.

8 We have facilities that we need to make
9 sure are secure. To echo what James said, we just
10 need to take care of our business as well and be
11 reasonable, and to mandate how things are done is just
12 not reasonable.

13 Thank you.

14 CAPT CHOPRA: Good afternoon. My name is
15 Anuj Chopra from Anglo-Eastern Ship Management. This
16 is regarding Section B, 105.200(b)(7) regarding shore
17 leave for the seafarers.

18 We would like to support the stand taken
19 by ITF, Longshoremen, Seaman's Church. I'd
20 specifically like to highlight a couple of issues
21 which are being -- practices which are being put in by
22 some terminals.

23 When we went up to MARSEC 2, some
24 terminals were charging a fee to the seafarers to go
25 to the gate because they were required by the security

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1 -- arrangements are in place to provide
2 transportation, so that there's no seafarers wandering
3 around in the terminal.

4 This was a \$50 fee, which was put on the
5 seafarer rather than with some terminals put it as a
6 block fee where they provided transportation, and it
7 was included in the charges, and, thus, became a cost
8 of business or cost of commerce.

9 So we would like you to please highlight
10 this in the regulation somehow or add words to it, so
11 that this practice is discontinued as it is clearly
12 discriminatory and unfair.

13 Thank you.

14 CAPT ZALES: Bob Zales, II, Chairman of
15 NACO. We would like to reiterate the comments made by
16 Ms. Gosselin and Mr. Chambliss and Mr. Roeber from the
17 charter boat perspective. We would encourage you to
18 have language in this rule to allow free, unimpeded
19 access by the public to charter boats.

20 We realize that the vast majorities of
21 these facilities probably don't have that type
22 activity there, but there could be some that do. And
23 in the future, others could have it. So it's
24 imperative that the public have free access for these
25 businesses for their success.

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1 Thank you.

2 CDR ENGLEBERT: Seeing no further comment
3 from the floor on Subparts A and B, we move to
4 Subparts C and D. Subpart C of Part 105 covers
5 facility security assessment requirements and
6 submission for those assessments. Subpart D covers
7 the facility security plan requirements, the format,
8 the comment -- excuse me, the format, the content, the
9 submission and approval requirements, and also the
10 amendment and audit procedures.

11 We will now open the floor for Part 105,
12 Subparts C and D comments.

13 MR. SLAUGHTER: Bob Slaughter from the
14 National Petrochemical & Refiners Association again.
15 I mentioned I'd be back to -- with a couple of
16 specifics.

17 The major specific is with regard to
18 Section 105.405, the requirement that the facility
19 security assessment be included in the submission of
20 the facility security plan. Our members appreciate
21 the intent of the Coast Guard that that information
22 would be protected from unauthorized access or
23 disclosure.

24 But the information in the FSA, our
25 members believe, is of such a sensitive nature that

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1 unless it is protected with a Secret designation, the
2 risk of disclosure and the damage that could result
3 thereby is simply too great.

4 NPRA believes the submission of
5 Form CG-6025, Facility Vulnerability and Security
6 Measure Summary, would be sufficient for the needs of
7 the captain of the port and would promote facility
8 security. The captain of the port, or his designee,
9 of course, could review the specifics of the FSA kept
10 on file with the owner or operator at any time.

11 And I apologize, but two of the points
12 apparently involve B, and with your leave I'll just
13 mention them very quickly.

14 We are asking the Coast Guard to take a
15 closer look at the restrictions that are imposed on
16 the facility security officer. As was mentioned once
17 before today, they are basically limited to -- the
18 FSO, to facilities in the same COTP zone.

19 And then, there also is the 50 miles apart
20 limitation that's been mentioned earlier. Because a
21 number of our companies have multiple facilities, we
22 think that it might make more sense to eliminate the
23 50 miles apart restriction, and that that can be done,
24 really, by just -- you know, you can even delegate
25 security duties to other personnel, which is

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1 essentially in the regs. So we think that would be a
2 better way to work that out.

3 Secondly, with regard to facility
4 personnel, paragraph E of Section 105.215 requires all
5 facility personnel, including contractors -- part-
6 time, temporary, or permanent -- to know how to
7 circumvent the facility security measures. And we
8 think that's overbroad language and may just be a
9 mistake in the rule, but we don't believe it should be
10 that broad.

11 And, again, of course we'll be filing
12 complete comments by the end of the month. We thank
13 you again for the opportunity.

14 RADM HERETH: One point of clarification.
15 The 50-mile rule -- tell us again, you're suggesting
16 that be deleted or just be stretched?

17 MR. SLAUGHTER: Well, it should at least
18 be stretched, because at least then people with
19 multiple facilities might be able to cover at least
20 more than one. Deleted would be even better, if you
21 can still achieve your purposes that way. But 50
22 miles our members felt was too restrictive.

23 MR. BROWN: Laurence Brown, Edison
24 Electric Institute, returning. I'd just like to
25 reiterate our concerns with regard to keeping very

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1 close at hand the plans and assessments, and just
2 bring to your attention our industry in particular,
3 along with many other industries, worked very hard to
4 get a provision in the Homeland Security Act related
5 to critical infrastructure information, so that that
6 could be voluntarily submitted to the government and
7 given protection.

8 And yet by making these things mandatory,
9 you vitiate that, completely remove the ability to
10 voluntarily submit it and keep it protected. So if it
11 is necessary to continue to require submission of
12 these plans, we reiterate, with the previous comments,
13 that they must be kept extremely secret, because our
14 facilities are not just those facilities on the
15 waterways. These plans may cover the entire company,
16 which stretches far back inland from the waterways.

17 Thank you.

18 RADM HERETH: Are you suggesting that
19 security sensitive information designation is not
20 appropriate?

21 MR. BROWN: Under the Homeland Security
22 Act, there is a designation for critical
23 infrastructure information, and that makes it free
24 from mandatory disclosure under the FOIA requirements.

25 But that only applies to information that is

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1 voluntarily submitted to the government.

2 So by virtue of these regulations, no
3 longer would this information be voluntarily
4 submitted. It would be required to be submitted. So,
5 therefore, the FOIA provisions that are in the
6 Homeland Security Act would no longer apply.

7 And if you were to get this information,
8 you would have to implement some sort of very
9 stringent mechanism, or, again, as I mentioned,
10 otherwise you would be getting far more than you
11 thought you were getting, particularly from industries
12 that only incidentally operate along the coastal
13 waterways.

14 RADM HERETH: I'm not quite sure I
15 understand still what you're trying to communicate.
16 And I know this is an important topic, and I want to
17 make sure that I get your point.

18 There is a non-disclosure statement in
19 MTSA.

20 MR. BROWN: Yes.

21 RADM HERETH: Are you suggesting that this
22 material will not be covered by that clause?

23 MR. BROWN: No. We're suggesting only
24 that that clause, as beneficial as it is, does not
25 give my members the comfort that they need to feel

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1 that this sensitive material will, in fact, remain
2 privy only to those parties who absolutely need it and
3 only to the extent that they absolutely need it.

4 So, again, I would reiterate the previous
5 comments that summaries, rather than the specific
6 details, may be all that is necessary. And, again,
7 that would allow, therefore, us to maintain those
8 specific details under the existing Homeland Security
9 Act provisions. And if we were to share them with the
10 government for some reason, that would be on a
11 voluntary basis, if and as needed, and would be
12 privileged under the Homeland Security Act.

13 RADM HERETH: And these are provisions of
14 the assessment, portions of the assessment, that
15 you're talking about.

16 MR. BROWN: Right. The assessments, or
17 the plans for that matter. Both.

18 RADM HERETH: Okay. I understand.

19 CDR ENGLEBERT: Thank you.

20 MR. CHITTIM: Good afternoon. My name is
21 Ron Chittim. I'm with the American Petroleum
22 Institute. API is a national trade organization
23 representing over 400 companies engaged in all aspects
24 of the oil and natural gas industry, including
25 exploration, production, refining, marketing, marine,

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1 and pipeline. As such, our members have a direct
2 interest in the rules that we're discussing today.

3 API and its members have a long-standing
4 commitment to protecting energy infrastructure. This
5 commitment has been strengthened through the
6 enhancement of numerous private initiatives, as well
7 as partnerships with federal, state, and local
8 authorities.

9 There are two comments I'd like to make
10 today. The first deals with Section 105.305 on the
11 facility security assessment requirements. In the
12 section -- in this particular section, the
13 requirements are very prescriptive as to an approach
14 for a facility security assessment.

15 However, as has been mentioned earlier
16 today, there are other methodologies available in
17 addition to the five that were included in the rule.
18 Many petroleum facilities have already conducted
19 security assessments using some of these other tools.

20 I support the comments made by Bob Slaughter of NPRA
21 earlier encouraging the acceptance of the API NPRA
22 assessment methodology as an alternative to the
23 language in this particular section.

24 The API NPRA tool was developed by
25 industry in close cooperation with DHS and DOE's

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1 Argonne Labs and was even pilot tested at some
2 industrial facilities. We also encourage coordination
3 of this acceptance with other agencies.

4 The second area I'd like to comment on is
5 the 105.310 on submission requirements. API members
6 are currently considering including wording in our
7 final comments that would recommend that the security
8 assessment and the security plan be decoupled.

9 While we are concerned overall about the
10 protection of security-related information, we are
11 particularly concerned about protecting the
12 information in the security assessment. The FSA is a
13 document that details possible threats,
14 vulnerabilities, consequences, and countermeasures of
15 a facility. It also serves as the basis for the
16 facility security plan.

17 We believe that security details in the
18 FSA should remain at the facility and should not be
19 required to be submitted with the security plan. The
20 FSA details would, however, be available for review
21 upon request by the Coast Guard during an inspection.

22 Thank you.

23 MR. ANTAL: Jim Antal, Port of Tacoma.
24 I'd like to address Subpart D, Facility Security Plan;
25 specifically, paragraph 105.415, Amendments and Audit.

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1 Under that, it says that the personnel
2 conducting the internal audits for the security
3 measures should not have regularly-assigned security
4 duties. My suggestion would be to amend that to say
5 "should not have regularly-assigned security duties
6 with that facility." That would make sense, because
7 you would have other security professionals that could
8 possibly do that.

9 Thank you.

10 MS. LAMBOS: Good afternoon. I'm Carol
11 Lambos. I'm Counsel to the United States Maritime
12 Alliance. As Mr. McDonough of the New York Shipping
13 Association mentioned this morning, we will be
14 submitting written comments on these issues.

15 But I would at this time like to assert
16 that the requirements for both the vessel and security
17 assessments are overbroad and well beyond the realm of
18 what the private sector can assess or reasonably
19 assess or plan for. And the private sector can only
20 assess those issues that are within its control.

21 And I would assert right now that many of
22 the issues that have been brought up all day today
23 stem from the fact that the security assessments
24 overreach. And if they were reasonably, if they
25 reasonably attach to tasks or functions that the

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1 private sector could address, we wouldn't have so many
2 of these issues regarding waterborne patrols or other.

3 I would particularly call your attention
4 to the unreasonableness of the consideration in
5 Section 105.305, Part C(2)(8) and (9), and this is --
6 these consider that the security assessments must
7 consider the blockages of entrances, locks, and
8 approaches, and nuclear, biological, and radiological
9 explosive and chemical attack.

10 I would strongly assert here today that
11 those are government functions and well beyond any
12 reasonable threat that the private sector can assess.

13 Thank you.

14 MR. BYERS: I'm Tom Byers with Williams
15 Energy Partners. Commander, this is my first card. I
16 forgot the first time, so -- regarding the facility
17 security plan, the preamble mentions that as far as
18 the format is concerned it can be combined with or it
19 can supplement or complement other safety programs.

20 The marine terminal facilities that we
21 have that are subject to the interim rules include the
22 facility response plans, integrated contingency plans,
23 and in some of these documents there are sections that
24 either in their current state or maybe in somewhat of
25 a revised, beefed-up version might satisfy some of the

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1 requirements of the facility security regulations.

2 So any help that the Coast Guard can give
3 as far as how we might use some of those to avoid sort
4 of a proliferation of a lot of paperwork by maybe
5 simply referencing other sections, other plans, and
6 that sort of thing, would be helpful for us.

7 Thank you.

8 MR. DENO: Stan Deno, International
9 Council of Cruise Lines. This comment is concerning
10 Part D, 105.410, the submission of the plan, and
11 basically it also sort of stretches into the overall
12 responsibility for the terminal and the definition of
13 "owner-operator."

14 This interim rule, the MTSA, and the ISPS
15 Code, clearly call for a 24-hour, seven-day-a-week
16 presence or authority at each port facility. Security
17 must be maintained at all times by an entity that can
18 effect changes to the infrastructure, complete
19 maintenance activities, and has a presence at the
20 facility at all times.

21 This can't be accomplished by a ship
22 operator or a cruise line assuming responsibility for
23 the terminal and its plan when the ship happens to be
24 at that facility. There must be a responsible party
25 at the terminal whether the ship is there or not.

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1 That same entity should conduct a port facility
2 assessment and should be the one to submit the port
3 facility security plan.

4 Inasmuch as 33 CFR 120 and 128 have not
5 been superseded at this time, I'd like to take
6 everybody back to the definition of "operator" in that
7 regulation. That is, the person, company, or
8 governmental agency, or the representative of a
9 company or governmental agency, that maintains
10 operational control over a passenger vessel or
11 passenger terminal.

12 Those same key words are also in the IR on
13 page 39280, where it says "maintains operational
14 control." And we would submit that it is not intended
15 to be on a part-time basis for security purposes.

16 33 CFR 120.303 and 128.305 are very clear
17 in the responsibilities for submission of a passenger
18 vessel terminal security plan. We believe that the
19 captain of the port is the federal maritime security
20 coordinator -- must demand that the real full-time
21 owner-operator of each port facility step up and
22 assume the responsibility for that facility at all
23 times, and for the requirements as specified in the IR
24 and the ISPS Code.

25 Thank you.

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1 MR. VOLKLE: Skip Volkle with Maritrans.
2 We are concerned about the potential for a lack of
3 compatibility between the vessel plans and facility
4 plans, because they're both reviewed by, approved by,
5 and interpreted by different people.

6 The vessel security plans obviously are
7 sent to the Marine Safety Center for review and
8 approval. Under the facility regs, they are only sent
9 to the captain of the port. We presume that the
10 review of these plans is going to involve
11 interpretation of the regulations and interpretations
12 of the requirements. And we're concerned that, number
13 one, we're going to have different interpretations of
14 what the requirements are at different facilities
15 within different ports.

16 You may have the Port of Tampa, for
17 example, having a different interpretation than the
18 Port of Miami or Port Everglades. That's just within
19 one state, and then you go to the Port of Houston,
20 which is going to be different altogether.

21 And so there needs to be some way, whether
22 it's initial review by the captain of the port and
23 then submission to the Marine Safety Center, or some
24 way to make sure that all of these things are
25 compatible, and that we have consistent uniform

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1 interpretations of the facility and the vessel
2 regulations across the whole United States.

3 Thank you.

4 MR. POLITTE: Eric Politte, Response
5 Management. A follow-on question to the gentleman
6 from Williams' point about integrated contingency
7 plans and facility response plans. If the security
8 elements under this rule are integrated with those
9 plans, how, then, will that data be able to be
10 protected under the information protection provisions
11 in TSA?

12 Does the entire integrated contingency
13 plan, then, fall under that? Or I guess in non-
14 question format -- we'll need some guidance on how the
15 data that we would integrate in those plans is
16 protected.

17 Thank you.

18 MR. KICE: Mike Kice, P&O Ports.
19 Subsection C, Facility Security Assessment, 105.300,
20 General, (d)(1). When you're doing a facility
21 security assessment, you need to know the knowledge of
22 current security threats and patterns.

23 After the current round, going to almost
24 every one of these conferences in the past two years,
25 I think you need to put in there "known security

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1 threats" and "known patterns," because a lot of the
2 information itself is SSI. We'd be going to the Coast
3 Guard every other minute to ask them what the
4 assessment at this current time is from your
5 viewpoint.

6 So as a private citizen, it would be much
7 better if we just say "known," we can go along those
8 lines.

9 RADM HERETH: What section was that?

10 MR. KICE: 105.300(d)(1), Knowledge of
11 Current Security Threats and Patterns.

12 Thank you.

13 CDR ENGLEBERT: Seeing no further comment
14 on Part 105 -- and they're setting up for a break, but
15 they're not quite ready for it yet. So I'm going to
16 push ahead with 106, but I'll only ask for a few
17 commenters on 106, and then I'll break you
18 approximately 1500, 3:00. So we're going to push
19 ahead to Part 106.

20 Part 106 is the Outer Continental Shelf
21 Facility Security Plan Requirements -- or
22 requirements. Subpart A is the general requirements,
23 and Subpart B is the facility security requirements.
24 So Subpart A, general, includes applicability,
25 compliance dates. Subpart B includes company security

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1 officer, facility security officer, as well as
2 security systems equipment and security measures.

3 The floor is now open for comment on
4 Part 106, Subparts A and B.

5 Did they all leave the room?

6 (Laughter.)

7 Okay. This makes it much easier. Seeing
8 no comment on Subpart A and Subpart B from this
9 contingent, we'll move to Subpart C and Subpart D, the
10 assessment and plan requirements for offshore --
11 excuse me -- outer continental shelf facilities. That
12 includes the assessment requirements, the submission
13 requirements, the plan, its contents, and amendment
14 and audit requirements.

15 Is there any comment or comments? They
16 are welcome now on Subparts C and D of Part 106.

17 MR. POLITTE: Is it okay if I go back to
18 A?

19 (Laughter.)

20 Eric Politte, Response Management. Again,
21 a question on applicability. Understandably, the
22 106.105 addresses about 40 of the large facilities.
23 Yet in 101 and the definitions it's kind of a broad,
24 full-reaching definition. So we're left wondering
25 applicability on the 41 through 5,000 facilities, what

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1 applicability, and then where do we go in the rule for
2 that? We're assuming that it will be clarified under
3 the area plans but need clarification of that.

4 Thank you for letting me go back.

5 CAPT ZALES: Bob Zales, II, Chairman of
6 NACO again. NACO has over 1,000 members located
7 around the Gulf of Mexico, who have historically and
8 routinely fished around these platforms offshore.

9 And we would request that in the planning
10 stages and in facilitating the assessment in the plans
11 that there be an effort to allow the historical
12 practice to allow people -- recreational people,
13 charter people, commercial people -- to fish around
14 these over 4,000 fixed platforms and numerous other
15 mobile platforms that are out there.

16 We would point out the fact that, as we've
17 said before, that we have the memorandum with the
18 Coast Guard to help with security interest. We would
19 argue that by allowing the historical practice of
20 fishing around these platforms that it gives a little
21 bit of extra security to that area for things that we
22 can see on the water that maybe others could not see.

23 And we have suggested -- there is a
24 committee in the Gulf. It's the Gulf Safety
25 Committee, which NACO is a party to, which currently

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1 they're having meetings to try to determine the best
2 ways to allow this. And we've suggested that
3 communication be established by VHF, cell phone, any
4 other practical means with these offshore facilities
5 in order for them to acknowledge our presence and be
6 able to relay any information which could jeopardize
7 the safe working environment.

8 We're concerned that the effort to prevent
9 access to the area around these facilities will cause
10 severe economic hardship to a large number of charter
11 boat businesses, and also to recreational fishermen
12 and commercial fishermen that typically fish around
13 these platforms.

14 So other than that, we pretty well agree
15 with this rule. We would just encourage common sense
16 in establishing this.

17 Thank you.

18 CDR ENGLEBERT: Okay. Seeing no comments
19 from the floor, I can only assume that you've heard
20 about the cookies that this particular hotel --

21 (Laughter.)

22 -- serves at this afternoon break. And I
23 don't think they are set up yet. Oh, yes, they are.
24 I can see some people already snitching them.

25 (Laughter.)

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1 So I am going to now break for -- until
2 3:15. That's a whole 20 minutes.

3 (Whereupon, the proceedings in the
4 foregoing matter went off the record at
5 2:56 p.m. and went back on the record at
6 3:22 p.m.)

7 CDR ENGLEBERT: All right. We'll start
8 again. The next topic for comment is the Automatic
9 Identification System. I'm not going to split this
10 up.

11 The regulations talk to changes to
12 Part 26, Part 161, Part 164, and Part 165. And I will
13 just simply open the floor for comments on automatic
14 identification systems.

15 MR. GREENBERG: Good afternoon. My name
16 is Eldon Greenberg. I'm an attorney with the law firm
17 of Garvey, Schubert & Barer. I'm speaking to you this
18 afternoon on behalf of the North Pacific Fishing
19 Industry Maritime Security Coalition.

20 The coalition is an ad hoc coalition of
21 fishing industry trade associations that collectively
22 represent the owners of over 300 fishing vessels, 65
23 feet or greater in length, that operate in the
24 fisheries off Alaska.

25 We've submitted a written statement, and

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1 in that statement we describe the various association
2 members of the coalition.

3 Our position is straightforward. We
4 believe that the automatic identification system will
5 impose costs on fishing vessels operating in the
6 Alaska fisheries that are vastly out of proportion to
7 any benefits that might be achieved. We believe that
8 the Coast Guard has authority under the MTSA to exempt
9 vessels from the AIS requirement where AIS equipment
10 is not necessary for safe navigation.

11 And we believe that the Coast Guard should
12 use that authority to exempt vessels engaged in
13 domestic voyages that only occasionally transit VTS
14 areas from the AIS requirement. For this purpose, we
15 believe that occasional use should be defined to mean
16 use of Coast Guard's VTS systems on fewer than 20
17 calendar days in any year.

18 In our written statement, we discuss at
19 some length the costs that would be imposed upon the
20 Alaskan fishing industry. I'd like to make just a
21 couple of points related to costs. As we view it, the
22 Coast Guard's rule will require more than 600 vessels
23 65 feet or greater in length that operate in the
24 Alaska fisheries, to incur costs of almost \$10,000 per
25 vessel for about a total of \$6- to \$7 million for AIS

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1 equipment.

2 And that equipment will be used only
3 rarely, typically only four to six days each year by
4 any of the 600 vessels. Let me just underscore, for
5 those of you who are not familiar with the Alaskan
6 fisheries, the primary fishing grounds we're talking
7 about are waters off Alaska. The vessels that
8 participate in those fisheries spend the great bulk of
9 their time in Alaskan waters or in the exclusive
10 economic zone adjacent to Alaska.

11 And about 95 percent of those North
12 Pacific fishing vessels would not be required to carry
13 AIS equipment under the Coast Guard's interim rule,
14 but for the fact that they visit Seattle two or three
15 times a year, and in some cases perhaps only once or
16 twice every two years, to obtain supplies, to change
17 crews, or for repair and maintenance work.

18 We believe in those circumstances there
19 simply is not a sufficient basis to impose the AIS
20 requirements on the Alaska fleet.

21 CDR ENGLEBERT: That concludes your three
22 minutes, sir.

23 MR. GREENBERG: Thank you.

24 RADM HERETH: One follow-up question.

25 MR. GREENBERG: Yes.

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1 RADM HERETH: You mentioned cost.

2 MR. GREENBERG: Yes.

3 RADM HERETH: Can you go back to that
4 section and --

5 MR. GREENBERG: Yes.

6 RADM HERETH: -- read that to us again?

7 MR. GREENBERG: Let me just -- I'll quote
8 from our written statement. "The interim rule will
9 require the more than 600 vessels 65 feet or greater
10 in length that operate in the Alaska fisheries to
11 incur costs of almost \$10,000 per vessel or a total of
12 \$6- to \$7 million for AIS equipment that will be used
13 only rarely, typically only four to six days each
14 year.

15 Thank you.

16 MR. MARTIN: Good afternoon. My name is
17 Cornel Martin. I'm Vice President of the Passenger
18 Vessel Association. The PVA strongly disagrees with
19 the AIS proposal for most domestic passenger vessels.

20 The cost of an AIS system, as alluded to earlier, is
21 estimated to be \$10,000 or more, and will pose a huge
22 economic burden on many of our members.

23 We are hearing from outraged and
24 distressed PVA members from all around the country
25 about this one part of the rule -- people who claim

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1 that they do not have the money to invest in this
2 technology that will provide few tangible benefits for
3 themselves or for society as a whole.

4 It is important to note that many of our
5 members' vessels operate in fairly limited areas.
6 They know these environments, and the maritime users
7 in these areas know our members' vessels. Neither
8 they, nor we, need an expensive, still-to-be-proven
9 technology fix to tell them what they already know.
10 They're used to operating around each other every day.

11 The Coast Guard's own economic analysis is
12 dismaying. It shows that the AIS requirement for
13 domestic vessels will have a negative cost-benefit
14 ratio. It will cost U.S. vessels on domestic routes
15 between \$38- and \$61 million in the first year alone.

16 Of all of the aspects of the interim rule,
17 this is far and away the most expensive security risk
18 eliminated. Looking at the data provided in the rule,
19 the dollar cost per risk point reduced for a vessel
20 security plan is \$279 in the first year. We consider
21 this to be a reasonable expense to reduce risk. The
22 dollar cost per point reduced for AIS in the first
23 year is \$26,391. That certainly does not seem to be a
24 reasonable expense.

25 Your own analysis admits, strictly upon

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1 consideration of monetized safety benefits, as
2 measured through decreased collisions and resulting
3 decrease in injuries and pollution incidents, the cost
4 of AIS installation for the domestic fleet far
5 outweighs the benefits over a 15-year period.

6 AIS will have a crushing impact on small
7 business. You estimate that the interim rule will
8 affect 1,491 small businesses that own 2,360 affected
9 vessels. This \$10,000 expense will fall on many of
10 them within a year and a half.

11 If the rule is extended, thousands of
12 other small businesses will certainly be injured in a
13 similar manner. We ask your consideration -- your
14 reconsideration of the decision to set the passenger
15 threshold at 50 for AIS requirement, particularly
16 since all other parts of the rule use the 150-
17 passenger threshold.

18 Thank you.

19 RADM HERETH: One follow-on question.

20 MR. MARTIN: Yes, sir.

21 RADM HERETH: Is there a threshold, dollar
22 threshold, at which you would consider these rules
23 reasonable?

24 MR. MARTIN: Depending on how far-reaching
25 the rules are. Again, the smaller vessel operator

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1 affected, the more serious the dollar impact. If the
2 rule stays at the 50 threshold, those are typically
3 small operators, and the dollar amount would be much
4 harder to swallow at even an amount half the \$10,000.

5 And, again, it's per vessel. So if you
6 have a company with a number of vessels, it multiplies
7 that.

8 One of the tables in the rule suggested
9 that you've already identified some 51 companies that
10 would have to expend more than 50 percent of their
11 annual revenue to meet the AIS requirement in the
12 first year alone.

13 I would venture to bet that that's 51
14 companies that will be out of business when the rule
15 is implemented, because no one can afford to take on
16 that kind of a hit.

17 RADM HERETH: Is \$10,000 the least
18 expensive AIS gear that you can obtain?

19 MR. MARTIN: We've only done just a little
20 bit of research in this area. But most of the systems
21 that we've seen fall in the \$7,000 to \$7,900 range,
22 plus installation, plus training.

23 We had one of our members noting earlier
24 that they have sailing vessels, and they don't have
25 the electronic capability to support the AIS system.

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1 So they would have to install generators, so that's
2 additional cost beyond the cost of the AIS system.

3 So there are still too many unknowns.
4 Hopefully, we'll have more time to be able to comment
5 on this, and this part of the rule can be set aside
6 for further review. But all in all, even your own
7 numbers suggest it's going to be a huge impact on
8 small businesses around the country, and that is our
9 concern.

10 RADM HERETH: Thank you.

11 MR. MARTIN: Thank you.

12 MR. LAGANA: Good afternoon. My name is
13 Brian Lagana. I'm the Executive Director of C-Port,
14 the national trade association for the commercial
15 marine assistance industry.

16 Our membership, which is -- numbers about
17 220 small companies right now, reflects about 50 to 60
18 percent of the known commercial marine assistance
19 industry in America. Our members usually tow disabled
20 recreational passenger vessels. They might do some
21 small marshaling work in their local harbors, some
22 salvage work, and emergency response, and some
23 pollution mitigation.

24 The way the regulation is written right
25 now, the applicability section of the AIS requirement,

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1 towing vessels 26 feet and over, and 600 horsepower,
2 especially those trend-setting certain VTS and VMRS
3 areas right now, have some applicability to our
4 members.

5 There is also language in there that
6 implies that the Coast Guard is considering expanding
7 this.

8 I'd like to support the comments of the
9 first two folks who spoke to the small business
10 impact. Our members' on average annual revenue is
11 about \$200,000 a year. They own one to three vessels.

12 You're looking at a tremendous impact here, and we --
13 our members are also thinking that when the original
14 language was written, towing vessel kind of
15 encompassed small marine assistance vessels as well as
16 the larger tug and barge industry.

17 What we would recommend in the final
18 regulations is exclusion language that is similar to
19 the language that you have in the recently-released
20 fire suppression and vessel voyage planning for towing
21 vessel regulation, or the definition of "assistance
22 towing" in 46 CFR 10.103 as a way to mitigate the
23 expenses on these small businesses.

24 Thank you.

25 MS. CARPENTER: Jennifer Carpenter with

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1 the American Waterways Operators. We understand that
2 the Coast Guard is faced here with a congressional
3 mandate in MTSA 2002, and so the same comments we're
4 making to you we've made to the Congress and we'll be
5 following up with them on.

6 And we appreciate your statement in the
7 preamble about sharing the public feedback that you
8 receive here with Congress, because we think that it
9 is important that Congress really understand what AIS
10 can and cannot do from a security standpoint.

11 As far as the interim rule is concerned,
12 we think that the Coast Guard has appropriately
13 focused on VTS and vessel movement reporting system
14 zones as the place where AIS carriage equipment
15 requirements will be established, since there are no
16 security benefits to AIS whatsoever, if there is not a
17 land-side infrastructure in place to receive the
18 information.

19 With that being said, we would say that
20 two things need to happen before AIS carriage
21 requirements can be imposed. One is we've got to make
22 sure that the land-side infrastructure is in place, so
23 you've set some targets in the interim rule which seem
24 reasonable to us, but we need to make sure that those
25 are met on the land-side before vessel carriage

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1 requirements are imposed.

2 Second, we will have -- and my colleague
3 will bring these up later -- some specific technical
4 requirements on the vessel carriage side that we also
5 believe need to be addressed before the carriage
6 requirement is imposed.

7 Thanks.

8 MR. HAYDEN: Channing Hayden, Steamship
9 Association of Louisiana. I'm sorry I have to
10 disagree with some of my colleagues. That has never
11 happened before.

12 (Laughter.)

13 Whenever there is going to be an interface
14 between vessels that are required to carry AIS
15 equipment and vessels that are exempt from carrying
16 AIS equipment, if there is a collision, then liability
17 has to be released. The vessel carrying the equipment
18 has to be released from liability.

19 If we're not going to have everybody
20 driving on the highway with their headlights on, those
21 who have their headlights on have got to be relieved
22 from responsibility if they hit the folks that don't
23 have their headlights on.

24 It gets that simple. I realize I
25 represent large vessels. I realize that a \$10,000 per

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1 vessel investment for a small business is a hefty
2 amount of money, except the widows and orphans are
3 going to wish that they had made that investment if
4 they get hit by a large vessel.

5 And, unfortunately, these kinds of
6 collisions occur all too frequently. Unfortunately,
7 small vessel operators do not obey the rules of the
8 road. I wonder if some of them know what the rules of
9 the road are, or have even heard of the rules of the
10 road.

11 Whatever the problem is, if we're going to
12 have an interface between vessels that have AIS and
13 vessels that don't have AIS, we have got to address
14 this issue and relieve the big ships of liability.

15 Thank you.

16 MR. WEAKLEY: Good afternoon. I'm Jim
17 Weakley with the Lake Carriers' Association. We are
18 not opposed to the AIS implementation. However, we do
19 object to the accelerated schedule for the VTS St.
20 Mary's area. And we have prepared written comments on
21 the docket, and I will provide a copy today.

22 If you look at the 1993 to '99 timeframe
23 that the regulations analyze, there was one collision
24 in over 400,000 VTS transits in the St. Mary's River.

25 That collision occurred between a foreign flag tank

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1 vessel and a foreign flag bulk vessel. It did not
2 involve any of our members.

3 Several of our -- if you look at the
4 timeframe for implementation, December 31st of '03,
5 it's before any other mandatory requirement in the
6 nation, and it's also a week after the saltwater
7 vessels have left the system, and also two weeks
8 before the locks of Sault Ste. Marie close.

9 So you're asking us to spend, in our
10 estimate, \$15- to \$25,000, depending on if you've got
11 a software upgrade. And you've added about \$5,000 per
12 vessel, because you're requiring us to do it on the
13 run as opposed to doing a lay-up.

14 Those of our members that had anticipated
15 installing it, this winter during the lay-up period, a
16 full year in advance of the requirement, we're going
17 to have the luxury of doing it dockside. These
18 regulations have taken away that luxury and added cost
19 for a two-week period with marginal, if any, added
20 benefit.

21 So, again, if I may conclude, we're not
22 opposed to AIS for the St. Mary's. However, we do
23 find fault with some of the logic at making the St.
24 Mary's VTS zone the first in the nation, and also we
25 question some of the economic benefits for that.

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1 RADM HERETH: I don't have the regs
2 memorized, so just help me with timeframes. You're
3 okay with AIS.

4 MR. WEAKLEY: Yes, sir.

5 RADM HERETH: I hear you saying you're
6 okay with AIS, except for the St. Mary's area. And it
7 seemed to be a timing issue.

8 MR. WEAKLEY: Yes, sir. The original --
9 we had understood all along December 31, 2004. We had
10 hoped for a December 15, 2005, as a harder deadline.
11 And then, when the regs were published this July, we
12 were given the December 31, 2003, deadline, certainly
13 in advance of Houston, Galveston, all of the other
14 higher-risk VTS zones than the St. Mary's River.

15 Thanks.

16 RADM HERETH: Yes, sir.

17 MR. MORAN: My name is John Moran. I'm
18 here this afternoon on behalf of the Southern Shrimp
19 Alliance, an association of the Domestic Harvesters of
20 Wild Shrimp, operating in the states between North
21 Carolina, down the south Atlantic, around the Gulf,
22 through Texas.

23 This is an industry that is in a great
24 deal of distress economically, in terms of rising
25 costs and falling prices. Much of the falling prices

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1 is due to a surge of imported shrimp. The industry is
2 distressed, economically distressed, to the point that
3 Congress last year provided \$35 million in economic
4 disaster assistance.

5 We would associate ourselves with the
6 remarks of Eldon Greenberg and the Passenger Vessel
7 Association, as well, Cornel Martin. For this
8 particular industry, the costs are way out of
9 proportion to the benefits that will be provided.
10 And, in addition, we think that the Coast Guard should
11 use the exemption authority available to deal with the
12 fishing industry in this particular case.

13 Eighty percent of the industry's vessels
14 fall below the 65-foot category. We would be very
15 concerned about the proposal to expand the
16 requirements for AIS carriage. And as the Coast Guard
17 pursues that, we would hope that there would be
18 additional public hearings, particularly in the Gulf
19 of Mexico, to give the public the chance to address
20 the expansion of the requirements.

21 Thank you.

22 RADM HERETH: One question. Again, your
23 shrimp alliance, how many members and how many vessels
24 are represented?

25 MR. MORAN: I believe there are about

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1 8,000 vessels in all that are represented.

2 RADM HERETH: Thank you.

3 MR. SMITH: Admiral, and other panel
4 members, I'm Dan Smith. I represent Maritel. First,
5 I'd like to say that we've already filed written
6 comments on the interim rule agreements, and we would
7 urge all of the maritime industry to read these
8 comments in detail.

9 We also gave testimony to the House
10 Subcommittee yesterday. We would also urge you to
11 read that also.

12 I appreciate the opportunity today to come
13 and share this information that is critical to the
14 implementation of the vessel automatic identification
15 system, or AIS. As envisioned by the Maritime
16 Transportation Security Act of 2002, the primary
17 purpose for providing this testimony is to inform the
18 Coast Guard and the maritime community that the MTSA's
19 expectation for an AIS in the form currently
20 contemplated cannot be realized without an agreement
21 to encumber a significant amount of spectrum assets
22 not currently available to the United States Coast
23 Guard.

24 Maritel is the exclusive geographic FCC
25 licensee for all nine maritime VHF public co-station

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1 areas, and owns exclusive rights to nine adjacent
2 wide-band channel pairs in the maritime VHF band in
3 these areas. One of these, Channel 87, has been
4 uniquely identified by the International
5 Telecommunications Union, ITU, as AIS-1, the primary
6 AIS channel for use on the high seas.

7 I'd like to pause here and say that the
8 FCC has not identified any channel -- any maritime
9 channels in the United States' territory waters as an
10 AIS channel. And Maritel, which is the exclusive
11 licensee to those frequencies, has not also identified
12 any channel as an AIS channel.

13 While not formally represented by Maritel
14 in this delivery today, there are 10 other incumbent
15 licensees who are also affected in the same manner
16 Maritel is. These ports -- some of them are, such as
17 LA/Long Beach, New Orleans, Valdez, and Berwick Bay.

18 Also, the international -- the Trans-
19 Alaska Pipeline uses Channel 87 currently today to --
20 on and off switches for the release of oil. These
21 will also be affected.

22 The tragic events of 9/11 and the
23 subsequently-enacted MTSA changed the Coast Guard's
24 requirements. Today, the Coast Guard wishes to more
25 broadly utilize AIS as a tool for surveillance and

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1 maritime domain awareness, rather than the more
2 limited purposes initially envisioned for PAWSS, the
3 Ports and Waterways Safety Systems.

4 To fulfill this mission, the Coast Guard
5 needs to implement AIS in all U.S. territory waters
6 with the same frequency plan that is used on the high
7 seas. Implementation of the high seas channel plan
8 requires simplex wide-band operational Channels 87B
9 and 88B.

10 However, this high seas channel plan will
11 cause significant interference with over 50 percent of
12 Maritel's frequencies. While Maritel wholeheartedly
13 supports the adoption and implementation of AIS, we
14 are deeply troubled by the Coast Guard's
15 implementation of the AIS requirement without
16 authorization to use the spectrum on which it's based.

17 We request that the United States Coast
18 Guard delay the carriage requirement until these
19 significant frequency issues can be resolved.

20 CAPT PAGE: Good afternoon. Ed Page from
21 the Maritime Information Service North America, Marine
22 Exchange of Alaska, commenting on the AIS discussion
23 in the regulations.

24 Certainly, we have heard speeches from the
25 Commandant regarding the maritime domain awareness

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1 being the centerpiece of the Coast Guard's maritime
2 security strategy, and also mentioning that they need
3 both AIS and long-range tracking systems.

4 And Congress recognized and has responded
5 to that through provisions for both AIS and long-range
6 tracking. But these regulations make no mention that
7 this really holistic approach -- that we really want
8 not just our areas where our ports are, but we want to
9 go to our EEZ, or maybe even to 96 hours when a vessel
10 reports, and 2,000 miles off shore.

11 Where are they really, and can we start
12 that process -- or maybe even start that process
13 earlier when they're loading containers in Singapore
14 and make sure they go directly from Singapore after
15 inspection to LA/Long Beach with no stops or
16 deviations.

17 So I suggest, and we suggest, that there
18 is some discussion, that there is another option
19 there, that this complements AIS in some cases,
20 instead of trying to cover everywhere with AIS, which
21 could be very, very expensive, and lead to user fees
22 over time to build that infrastructure, to concentrate
23 in those dense areas.

24 You will never cover Alaska, which is one
25 of our concerns. Alaskans -- many of our operators

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1 now are being tracked using satellite communications.

2 Fishing vessels have been required to do that for
3 years now, for the National Marine Fisheries Service,
4 and it costs about a latte a day, again, to do that,
5 especially in light of the fact that they only go to
6 Seattle or maybe transit through Prince William Sound
7 a couple times a year, that they get additional
8 equipment when already they are providing information
9 to the government on their location, which would aid
10 maritime security.

11 That can be done today with existing
12 equipment inexpensively, and does not require years of
13 building infrastructure down the road. So there are
14 certainly some areas, and certainly Alaska, where the
15 AIS solution is not a today solution. It's an
16 expensive solution, and it really may never be the
17 right solution.

18 And other areas where long-range tracking
19 can be done today using existing global and marine
20 distress safety systems -- very expensively -- and
21 we'll answer this maritime domain awareness issue
22 strategically offshore today. So we just urge that
23 that start being addressed now in the AIS dialogue.

24 RADM HERETH: Ed, can you comment on your
25 fishing vessels up in Alaska, the cost of

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1 installation. You talked about a latte a day for -- I
2 guess presuming that that is operations -- operational
3 costs.

4 CAPT PAGE: That's correct.

5 RADM HERETH: Can you tell us just a
6 little bit about that?

7 CAPT PAGE: Yes. Some are \$5. There are
8 other systems that actually cost as little as \$3 a
9 day, depending on the rates. If you use MRSAT/SET
10 system, typically the transponders cost \$2,000 to
11 install initially. There has been a rebate program
12 for fishing vessels to participate in that, and they
13 pay the operating costs.

14 Another formula would be for the Federal
15 Government to pay the operating costs, since many
16 ships have already got the GMDSS equipment on board.
17 And, again, the cost would be nominal, and it's not
18 requiring a build-up of infrastructure. The equipment
19 is in place. So you can actually track the 10,000
20 vessels calling U.S. waters today, all of which are
21 equipped with GMDSS, and start that maritime domain
22 awareness today. And, of course, AIS will be built as
23 time goes on.

24 RADM HERETH: Does such a system give you
25 more than just name of the vessel?

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1 CAPT PAGE: No. It can. You can put as
2 much data as you want in there, and we can -- you
3 know, right now, fishing typically just uses the
4 location and name of the vessel. There's fish catch
5 information. But you're looking at probably more
6 along the lines of course, speed, cargo, and this can
7 get course and speed, the next port of call, cargo.
8 It can get as many data sets as you want to put in
9 there, along with the -- which is tagged to the data.
10 It's burst out every couple hours.

11 RADM HERETH: Thank you.

12 CAPT PAGE: Thank you.

13 MR. WELCH: Good afternoon. I'm Ed Welch,
14 Legislative Director for the Passenger Vessel
15 Association.

16 Admiral, yesterday when you and the
17 Commandant were testifying at the Coast Guard
18 Subcommittee in the House -- incidentally, the panel
19 that originated the AIS legislative requirement -- you
20 got a number of questions on AIS. If I recall
21 correctly, they all had to do with international
22 foreign vessels coming to the U.S. Those members
23 wanted to make sure that those people had AIS systems,
24 and that you had a way to track those approaching
25 vessels.

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1 There wasn't a single question about our
2 passenger vessels on the Mississippi River or shrimp
3 fishing vessels or Alaska fishing vessels
4 participating in the AIS system. It's clear that the
5 Congress was thinking about international vessels and
6 security measures. It was a maritime security bill.
7 This was not a maritime navigation bill. It was a
8 maritime security bill. So you need to look at AIS
9 from a security standpoint.

10 It may or may not have navigation benefits
11 for certain folks, but this is security legislation.
12 We need to look at it in that context.

13 You also heard yesterday and today that
14 there is a serious legal question that looks like it's
15 heading, in my view as an attorney, for some expensive
16 litigation as to whether there is sufficient bandwidth
17 for the Coast Guard to implement an extensive AIS
18 system.

19 I would submit that it is not appropriate
20 for the Coast Guard, not fair for the Coast Guard, to
21 impose on U.S. maritime industry the most expensive
22 part of this rule until you are absolutely sure you
23 can do what you need to do to have an effective AIS
24 system. And right now you can't give us that
25 assurance. You can't give us the assurance that the

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1 Coast Guard is going to be receiving these messages
2 from the foreign vessels.

3 Finally, I would point out that there is a
4 key part of the law in the statute that Congress put
5 in there that you have not addressed in the interim
6 rule, and that is the procedure for individual vessel
7 exemptions. That needs to be done in the --
8 immediately, not in the next round. That needs to be
9 done for the possibility of individual vessel
10 applications for exemptions within the first round of
11 the AIS requirement.

12 So we would ask for you to look at this as
13 a security, look at Congressional intent to apply
14 primarily the question of foreign vessels approaching
15 the U.S., and implement that part of the law that sets
16 up a procedure for individual vessel exemptions, and,
17 of course, the next time around geographic exemptions.

18 Thank you very much.

19 RADM HERETH: Upon what do you think those
20 exemptions should be based? Do you have any criteria?

21 MR. WELCH: They should be based on risk.

22 They should be based on risk, and your own materials
23 talk about how domestic vessels have very little
24 security risk. And they should be based on cost-
25 benefit analysis, and your own materials talk about

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1 how just in the VTS areas you'd have to spend a dollar
2 -- for every dollar you spend on a domestic passenger
3 vessel or domestic vessel for VTS -- for an AIS
4 system, you get 25 cents worth of benefits. That is a
5 sorry, sorry cost-benefit ratio.

6 And if you expand that requirement beyond
7 the VTS systems, you're going to get a much more
8 dramatic, a much more horrid cost-benefit ratio. So
9 risk and cost and security.

10 Thank you.

11 CDR ENGLEBERT: Thank you.

12 MS. GOSSELIN: My name is Debbie Gosselin
13 with Watermark Cruises in Annapolis, Maryland. And
14 I'd like to speak also to the AIS system requirement
15 proposed. I certainly hope that vessels over 65 feet
16 and over 50 passengers do not have to be equipped with
17 the AIS system.

18 For my company, the cost would be -- we
19 would have to have four to five boats have the AIS
20 system installed. From my understanding, that's going
21 to cost me a minimum of \$50,000. Several of our
22 vessels do not have the electrical system to support
23 it, so we would have to upgrade that, which would cost
24 even more.

25 With our seasonal business, that

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1 represents a huge part of our revenue, and most, if
2 not all, of our profit.

3 In the Annapolis area, I do not see where
4 AIS would benefit either navigation or security in any
5 way. At any particular -- on any particular summer
6 Saturday in the Annapolis area, the Severn River and
7 the Chesapeake Bay right outside the Severn River,
8 there may be a maximum of three dozen boats that would
9 have the AIS system equipped.

10 At the same time, there would be between
11 2,000 and 3,000 recreational vessels in that area.
12 None of them would be required to have the AIS system.

13 I don't see how the minority three dozen boats having
14 an AIS system would benefit navigation or reduce
15 threat level in any way. So I hope that you will keep
16 that in mind.

17 And I have never been in a VTS area, so I
18 don't know if it helps there. But certainly it would
19 not provide any benefit, and would be very expensive
20 for the small operators in our area.

21 Thank you.

22 CAPT ZALES: Bob Zales, II, Chairman of
23 NACO again. With the exception of the gentleman that
24 mentioned vessels having AIS versus non-AIS vessels,
25 we pretty well agree with everything that's been said

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1 here so far.

2 I would like to add that when they're
3 talking about some of your own language -- and I'd
4 like to specify that somewhere in the Federal Register
5 you have a statement that says, "Strictly upon
6 consideration of monetized safety benefits is measured
7 through decreased collisions and a resulting decrease
8 in injuries, mortalities, and pollution incidents.
9 The cost of AIS installation for the domestic fleet
10 far outweigh the benefit over a 15-year period -- 2.26
11 benefit-cost ratio.

12 "This ratio results from the high cost of
13 purchasing and installing the unit, an estimated
14 \$9,330 per vessel, and the types of marine casualties
15 that AIS is expected to mitigate, where damage is not
16 usually severe, nor is there significant loss of
17 life."

18 This adequately states that there will be
19 little or no benefit to enhanced safety and
20 navigation. When you add to this the conservation
21 estimates by your research on the number of vessels
22 possibly impacted, the economic status of the majority
23 of family-owned charter boat businesses, the
24 overwhelming positive safety record of the charter
25 boat industry, our historical and continued

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1 cooperation with government agencies and your
2 additional statement in the Federal Register, we are
3 unable to quantify or monetize the benefits of this
4 Coast Guard mission or the individual contributions of
5 AIS.

6 We emphatically suggest that this rule
7 should exempt charter boats from any requirement to
8 comply. This exemption should also apply to charter
9 boats that may transit any VTS or similar traffic
10 system. Clearly, you understand that this rule should
11 not be intended for charter boats, as the reality is
12 that it will not increase safety or prevent harmful
13 security incidents.

14 I'd like to add that, in theory, AIS and
15 any kind of identification system for vessels on the
16 water sounds really nice and looks nice. The reality
17 is theory and reality don't always match. And in this
18 particular situation, we would argue adamantly that it
19 does not.

20 Someone mentioned before me about the
21 number of recreational vessels. And at a meeting I
22 attended last week in Florida, there I think were
23 900,000 vessel registrations in the State of Florida.

24 The vast majority of those are recreational boats.
25 Those boats are not going to play here.

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1 When you get into a situation to where, as
2 the gentleman mentioned about AIS, many navigational
3 pieces of equipment, as far as I know of as being a
4 licensed operator, is only an aid to navigation. None
5 of it ever relieves the responsibility or liability
6 from me as being a master of a vessel from having the
7 responsibility and operating under prudence to keep my
8 vessel safe and the area around me safe.

9 So we would argue that this rule -- that
10 all charter boats, at a minimum, should be exempt from
11 this regulation.

12 Thank you.

13 MS. BRANDT: Amy Brandt of the American
14 Waterways Operators. I'm just adding to the comments
15 that Jennifer Carpenter made earlier with some
16 specific technical concerns that AWO has about the AIS
17 interim rule.

18 First, given their smaller size, domestic
19 towing vessels and other small vessels are unable to
20 comply with the IMO installation guidelines as
21 required by the interim rule. There is not enough
22 room on the wheelhouse roof to prevent antennas from
23 interfering with each other's signals, and the
24 installation standards must be developed and tested on
25 domestic towing vessels prior to a carriage

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1 requirement being imposed.

2 Second, the Coast Guard must resolve the
3 frequency allocation issue to ensure that there is
4 consistency in all VTS zones prior to carriage
5 requirements. The system will not work if operators
6 must manually set AIS units for a different frequency
7 in each port as specified in Table 161.12(c), now in
8 the interim rules.

9 Third, the Coast Guard must resolve
10 questions over patent rights for the AIS standard
11 prior to implementing the carriage requirements.
12 Otherwise, carriers will potentially face lawsuits for
13 complying with the regulations.

14 Fourth, the list of information required
15 to be broadcast by AIS is far too expansive and goes
16 beyond the security goals of the interim rule. Vessel
17 captains should not be required to input information
18 on their destination, estimated time of arrival, or
19 number of passengers. It is a distraction from their
20 duties, and for towing vessels most of the information
21 is of limited value.

22 Some of the data fields would require a
23 gyrocompass, which would increase the cost for many
24 towing vessels. And some information required in the
25 interim rules is not applicable to domestic vessels,

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1 like MMSSI number, arrival time, and universal time
2 code.

3 Finally, the Coast Guard should write the
4 AIS final rule in plain language to facilitate
5 understanding of the rule and all of its technical
6 requirements.

7 Thank you.

8 RADM HERETH: Just expand on that last
9 comment -- write the rule in plain language.

10 MS. BRANDT: As opposed to all of the
11 incorporation by reference and the citations to the
12 IMO standards. If the information could be provided
13 specifically in the final rule, that would be most
14 helpful.

15 RADM HERETH: I understand.

16 MS. BRANDT: Thank you.

17 MR. McLAUGHLIN: Lindsay McLaughlin,
18 International Longshore & Warehouse Union. My union
19 does represent a marine division, the Inland Boatmen's
20 Union of the Pacific, so we will be looking at this
21 and other issues for our public comment. But I wanted
22 to correct the record on something I said earlier,
23 that I misspoke.

24 I checked with my union, and they are well
25 on their way to commenting on these regulations. So

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1 my previous comment about needing more time to
2 consider that, please disregard.

3 Thank you very much.

4 CDR ENGLEBERT: Okay. So disregarded.

5 (Laughter.)

6 CAPT PAGE: I don't want to pass up this
7 opportunity beat out Stan Deno. Actually, Ed Page
8 again, one more comment on AIS. With respect to the
9 security aspects of it, which have been raised up by
10 several shippers who operate passenger vessels and
11 tankers in Alaska, and other areas for that matter,
12 and that's the concern that -- and I don't really have
13 an answer other than the fact that I want to bring it
14 to your attention, and I think it should be somewhere
15 looked into by the Coast Guard.

16 As you go to these various MARSEC levels,
17 MARSEC 1 and MARSEC 2, MARSEC 3, or if you had
18 something even more serious such as the 9/11 incident,
19 where suddenly ships are being attacked, that there
20 may be some provisions in the requirement or some
21 procedure where the Coast Guard would actually direct
22 vessels to turn off their AIS, because AIS broadcasts
23 that information to everybody, including the enemy,
24 and they can use it as a targeting -- terrorist
25 targeting system if you will by just monitoring that,

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1 by going to Radio Shack and buying some equipment, and
2 they can use that to find the tankers or the passenger
3 vessels or chemical ships, or what have you, that they
4 want to target.

5 So some have discussed that. They said in
6 the heightened state of awareness -- of security
7 they'd be inclined to turn it off. If others are
8 thinking about that, perhaps the Coast Guard should
9 think of that also. And, of course, if you had other
10 systems, such as satellite secure systems, you
11 wouldn't completely lose that vessel.

12 The Coast Guard would still know where
13 they are. They just wouldn't have that continual beam
14 of information that's being broadcast to everybody in
15 the clear. It would be a secure, only to those that
16 would need to know, such as the Coast Guard and
17 Customs and others involved in maritime security.

18 So these things have been raised by the
19 maritime community, some concerns about that,
20 broadcasting all of that information which they really
21 don't want to share with everybody, but now they will
22 be forced to do it. There may be times that that
23 would be not the right thing to do. It only invites
24 some more problems.

25 Thank you.

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1 CDR ENGLEBERT: Last call on the AIS.
2 Seeing no further comment on AIS, I'd like to draw
3 your attention to the Federal Register, page 39313.
4 39313.

5 I will apologize for not having a slide,
6 and, therefore, we neglected to allow comment on
7 pages 39313 through 39315, which were amendments, or
8 which are amendments, based on the vessel security
9 requirements. These are subsequential amendments to
10 various parts of 46 CFR.

11 I'll let you think about it for a minute.

12 Does anybody have a comment on this? If
13 you do have comments on this, please submit them to
14 the docket. I'm sure you've heard that before
15 somewhere.

16 Also, we handed out -- one of the handouts
17 today, we have a minor correction to that handout.
18 The one that's two pages, front and back, it talks
19 about the grant program. Just take a second and find
20 that handout for a minute. It's a two-page front and
21 back handout about the grant program.

22 Okay. This is a correction?

23 MR. RYBICKI: Yes. I just want to call
24 your attention to that handout. It's two pages. It
25 deals with the port security grants, round three. If

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1 you look in the back, there's a typographical error on
2 the e-mail address for Tony. It's Corio. If you're
3 trying to send an e-mail, it's -- his name is spelled
4 correctly at the top. His phone number is correct.
5 His e-mail is incorrect. It's C-O, Oscar. And it's U
6 for uniform.

7 Thanks.

8 It should be tony.corio, C-O-R-I-O,
9 @dhs.gov. So if you're looking for information on the
10 \$104 million port security grant, round three, and you
11 send an e-mail and you get it back, you heard it here
12 first, there was a typo in the Federal Register that
13 was issued on Monday.

14 Thank you.

15 CDR ENGLEBERT: Great. Okay. In the
16 homestretch. I'm getting you out before possibly,
17 potentially before.

18 I told you that if we had time we would
19 open the floor one more time for general comments
20 before we summarize and have Admiral Hereth say some
21 final remarks.

22 At this point in time, I will open the
23 floor for comments that you may or may not have
24 missed. This will be, you know -- I'm going to have
25 to stop at some point, but I'll just keep on going as

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1 long as you are, and then I'll stop when we run out of
2 time.

3 MR. McEWING: Yes. Good afternoon, and
4 thank you. Brian McEwing with the Cape May-Lewes
5 Ferry. I would just like to say that we support the
6 position of PVA that was put forward today.

7 Thank you.

8 CDR ENGLEBERT: Okay.

9 MR. LAURIDSEN: Good afternoon, Admiral,
10 Commander, members of the panel. I'm Peter Lauridsen.
11 I'm the regulatory affairs consultant for the
12 Passenger Vessel Association.

13 I'm always pleased when the Coast Guard
14 comes out and holds these public hearings and
15 meetings. I think there's great benefit in face-to-
16 face contact between the government and the industry.

17 I also find it particularly enlightening for myself.

18 As I heard other people speak today, there are two
19 issues that were brought up by non-passenger vessel
20 people that I think directly affect us.

21 I don't know whether I glossed over them
22 or I glazed over them trying to read the regulations,
23 but the two areas are, as you know, the Passenger
24 Vessel Association is coming up with an industry
25 standard. Under 104.140, the alternative standard

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1 plan, it says it cannot be used for vessels on an
2 international voyage.

3 I think we had expected that all of our
4 vessels, all of our domestically operating vessels,
5 would be covered. Somebody pointed out that the Great
6 Lakes in 101.105, the definition of international
7 voyage, the Great Lakes were determined to be an
8 international voyage. So we have a problem, and I'm
9 not sure where we correct it, whether it's in the
10 Part 104.140 or in 101.105.

11 As I went into the definition of
12 international voyage, I was even more concerned when I
13 read the definition, and it said, "For the purposes of
14 this subchapter, vessels are considered as being on an
15 international voyage when solely out navigating the
16 Great Lakes and the St. Lawrence River."

17 I suppose literally read that could apply
18 to dinner cruise vessels in Chicago and water taxis in
19 Toledo. Obviously, that's not what we want.

20 We have some two to three dozen vessels
21 operating on the Great Lakes who are members who are
22 capable of operating -- calling on Canada or crossing
23 into foreign waters. So I'm not sure what fix we're
24 going to propose there, but obviously we want to
25 propose something.

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1 The other item was 104.225 talked about
2 security training for vessel personnel. In the
3 passenger vessel industry, there are a large number of
4 operations that use independent contractors for
5 musicians, caterers, and so forth. We would like to
6 propose some change to that. Obviously, these people
7 are not available for training and only visit the
8 vessel occasionally. We will propose some elaboration
9 on that.

10 One last item. It was brought up by Kevin
11 Stier -- a concern about exemption for government
12 vessels. You asked specifically what those vessels
13 were. They're Corps of Engineers vessels. I'd like
14 to take it one step further. Our concern not only
15 addresses the Corps of Engineers using the vessels to
16 carry people, but the Corps of Engineers loans their
17 vessels to non-government entities to carry these
18 people through the locks. So you have a non-regulated
19 barge pushed by a non-secure barge pushed by a non-
20 secured towboat with several hundred people into a
21 lock.

22 Many OCMI's, their hair may turn gray, and
23 we certainly wouldn't want that to happen to our
24 Commander Englebert. So I think we need to address
25 that issue.

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1 (Laughter.)

2 Thank you.

3 ADM NORTH: Good afternoon. Thanks for
4 this last opportunity. Bob North, Lloyds Registry,
5 North America.

6 Two comments. First, with regard to the
7 AIS issue, just to add on to a couple of comments
8 concerning long-range tracking. There's a long-range
9 tracking proof of concept project just finishing up in
10 the Port Authority of New York and New Jersey as part
11 of a TSA grant, round one.

12 That kind of answers the questions I
13 think, or some of the questions, posed yesterday at
14 the hearing, as I understand them, with regard to
15 tracking foreign vessels inbound to the U.S. -- way
16 out. And it's designed or can be designed to
17 basically complement AIS, or, in some cases, given the
18 security concern if necessary, so a very compatible
19 system. Proof of concept seems to have gone very
20 well. You might take a look at that.

21 With regard to, lastly, we expressed a
22 concern during the last series of public meetings in
23 the comment period over section -- and I'll give this
24 at dictation speed, and this is in the MTSA,
25 Section 70.103.C(3)(d) regarding the potential for

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1 setting an indefinable standard with respect to the
2 need to, and I quote, "identify and ensure by contract
3 or other means approved by the Secretary the
4 availability of security measures necessary to deter
5 to the" -- and the magic words -- "maximum extent
6 practical the transportation security incident or
7 substantial threat of such a security incident."

8 This was not addressed in the current
9 interim rule, as I read it. And the concern is that
10 the -- in the event of an incident, or substantial
11 threat of an incident, it might be viewed that an
12 approved plan of a vessel or a facility may have
13 fallen short of that somewhat vague standard,
14 seemingly high standard written in MTSA.

15 So what we had suggested before, and would
16 suggest again, one, that places that shipper or
17 terminal potentially in violation of the law perhaps
18 with according liability. We would request that the
19 final rule address this issue by stating that an
20 approved plan is deemed to meet that standard, or that
21 otherwise you clarify the intent of that section of
22 the MTSA.

23 Thank you.

24 MR. BRYANT: Dennis Bryant with Haight
25 Gardner. The vessel and response -- vessel and

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1 facility response plan rules under OPA '90 contain a
2 provision which I would recommend be imported into the
3 vessel and facility security plan regulations.

4 And that provision states that the plan
5 constitutes completion of a planning requirement and
6 not an operational requirement, so that when the plan
7 is used in an actual incident it is not -- compliance
8 with the absolute letter of the plan does not -- or
9 non-compliance with the absolute letter of the plan
10 does not constitute violation of the regulation and
11 subject the plan holder to civil liability or to civil
12 penalty.

13 I would strongly recommend that that
14 provision be put into these regulations.

15 Also, a general comment. What we've been
16 discussing here, while it may seem somewhat onerous,
17 constitute minimum requirements for security. And I
18 would command to shipowners and facility owners the
19 concept that you want your vessel and facility as
20 secure as reasonably possible, that these are the
21 floor elements of your security program.

22 And the goal should be to make your vessel
23 or facility the least attractive target to terrorists.

24 That if they're going to attack a ship, let it be
25 someone else's, not yours. So do what is required,

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1 but also do more if you think it's actually feasible,
2 if it's going to achieve the ultimate goal, which is
3 to make sure that your vessel or facility is not the
4 target.

5 Thank you.

6 MR. VOLKLE: Hi. Skip Volkle from
7 Maritrans. I would like to echo Dennis' previous
8 comment about the -- making clear that these are
9 planning requirements and not operational
10 requirements. That's a -- it was a hard-fought issue
11 in OPA '90, and it's a really good idea for these
12 regs, I think.

13 The reason that I came up was to just go
14 back to the vessel requirements, on one thing that I
15 just want to kind of put in the Coast Guard's head,
16 and that has to do with the designation of restricted
17 areas. And I know that you're trying to have a
18 regulation that covers a broad spectrum of the
19 industry, but you read the restricted area provisions
20 and it gives you the sense that you're dealing with
21 big cruise ships and ferries and things like that
22 where we have vessels in our particular business --
23 for example, tugs and petroleum barges and oil
24 tankers.

25 And I would ask that you make it clear

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1 that rather than have, you know, some parts of a
2 vessel with signs and chains and all the rest of that
3 stuff, we can designate the entire vessel as a
4 restricted area, put a sign on the outside of the
5 vessel, the vessel is a restricted area, control
6 access, and then basically use the control access for
7 anyone getting on the vessel as our security measure,
8 and then allow, you know, crew, contractors, and
9 approved visitors to be able to go on the vessel and
10 do their job.

11 And then, using the monitoring requirement
12 rather than this -- the continuous monitoring as using
13 the crew and the watch standards to make sure that the
14 people who are on board the vessel, because the whole
15 vessel is a restricted area, make sure that everyone
16 on board the vessel continues to have the -- whatever
17 badging requirement will be required for access onto
18 the vessel.

19 MR. COX: Good afternoon. This is Joe Cox
20 with the Chamber of Shipping again. And I wanted to
21 congratulate you, Admiral, on all of the breaks that
22 you've given us, and the chow and that, and the
23 coffee. It was really good coffee.

24 But understand that in about 15 minutes
25 we're going to have Happy Hour on the Coast Guard.

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1 I'm wondering -- it's not a question, it's a comment.

2 (Laughter.)

3 And I think everybody has been sitting
4 here very, very patiently all day, so I think we are
5 -- we owe something, more than just a cup of coffee.
6 But we -- earlier I did put in the comments that the
7 Chamber had submitted to the Congress yesterday, and
8 we have had discussions with the Coast Guard on two
9 liability issues.

10 And Denny Bryant brought up one of them
11 today, and I'm going to disagree with Denny. But
12 that's all right; we stab each other in the chest all
13 the time. Okay?

14 (Laughter.)

15 And that is with respect to the liability
16 and the conformance with plan, we submit that the
17 issue of security is much different than the issue of
18 oil spill liability and response.

19 And to suggest to the American public that
20 the American shipowning community, and the foreign
21 shipowning community coming into the United States
22 should have the responsibility to go beyond what the
23 Federal Government is telling us to do in order to
24 prepare our industry to fend off a terrorist incident,
25 is a mistake.

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1 We are going to rely on you as the
2 national government to approve our plans and to
3 enforce, to the extent possible from your side, the
4 adherence to those plans by all parties. Now, if we
5 don't adhere to it, we should be found at fault for
6 that. But if we adhere to it, I strongly say that we
7 should not be held liable for some terrorist incident
8 that we could not have foreseen.

9 Before 9/11, none of us envisioned that we
10 would get on a plane and that that plane would crash
11 into a building. Now we take that as a second nature
12 as Americans, that there are people out there who want
13 to kill us. I don't think that our industry, in our
14 commercial aspect, should be put at the front line of
15 responsibility to try and dream up prevention
16 techniques or prevention postures that the Federal
17 Government has not authorized for us.

18 On the liability side, our comments do
19 speak to oil spill liability. As you know, we're in
20 discussions with the Coast Guard. OPA '90 has a
21 strict oil spill liability issue, and that strict
22 liability extends to the fact that even if it's a
23 terrorist incident, we, the shipowners and operators,
24 are responsible for the oil that's on the water.

25 And we are in discussions with the Coast

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1 Guard, and we'd like it on the record that we think
2 that there ought to be a solution to that problem
3 before it happens. So that when it does happen we're
4 able to address it and do it in a professional,
5 cooperative manner, and not in an ad hoc, somewhat
6 perhaps not as good as it could be manner.

7 I want to thank you for today's open
8 meeting. I don't think I've ever been at a public
9 meeting where there's been so many people making so
10 many comments. I certainly congratulate all of my
11 colleagues out here for making comments. I think
12 they're all well thought out, and I certainly hope you
13 take them under consideration and recognize that we
14 were the first ones to put our comments into the box.

15 So --

16 (Laughter.)

17 -- thank you very much.

18 CDR ENGLEBERT: Okay. It's always good to
19 end with a thank you, so I think we'll close the floor
20 now.

21 I'd like to review with you the timeline,
22 and state again that the docket closes on July 31st.
23 And also, that it is our intent to have a final rule
24 published in October. And then I get to go to St.
25 Louis.

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1 I'd like to make sure that you are fully
2 aware of the ability to submit comments to the docket.

3 These are all in your handouts, in little text, and
4 now it's in big text here. You can do it
5 electronically. It's as simple as an e-mail. You can
6 do it -- you can submit comments by fax. You can hand
7 deliver your comments. We took comments today.

8 You could still write comments today, and
9 I will plead one more for one handwritten comment that
10 I have up here that was unsigned and unnumbered. And
11 we won't submit this one to the docket, because we
12 don't know whose it is. It has to deal with leasing
13 dock areas, and it looks like this. So if you wrote
14 this, all you have to do is put your name on it, and
15 then I'll submit it.

16 Also, you can mail it in. These addresses
17 are also in the front of the Federal Register. All
18 six dockets have these addresses.

19 And now I'll ask Admiral Hereth to give
20 the closing comments.

21 RADM HERETH: Let me just briefly say a
22 couple of things. First of all, thank you, everybody,
23 for your comments today. Greatly appreciate it. I
24 think we got some wonderful, very insightful remarks
25 from people, very well thought out. Obviously, many

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1 of you did your homework, and scoured the regs looking
2 for the details that we were hoping would come out
3 today.

4 So the discussion and dialogue that we
5 heard today was wonderful from our perspective. We
6 have our -- we have reconsolidated our reg team, and
7 they are eagerly looking at the docket every single
8 day. We lock them in a room every morning. They
9 can't come out until they review everything that goes
10 into the docket that day. So -- well, not quite, but
11 close, right?

12 So we are geared up and ready to receive
13 your comments. Again, we appreciate what -- taking
14 the time to come up to the mike today and talk to us
15 personally. We know that's difficult sometimes, so we
16 appreciate your coming up and talking to us.

17 We certainly see this as an all-hands
18 evolution, and, therefore, we really appreciate your
19 participation. No one agency, organization, entity,
20 Coast Guard, any other organization up here can do it
21 all. We're all in this together. We're all trying to
22 set the bar at the right height, and we certainly
23 appreciate your help.

24 We think that a federal regulatory project
25 is really the right way to go for consistency

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1 purposes. We get consistency with our international
2 partners. We get consistency from state to state as
3 vessels move around the country. But also, we get
4 consistency along the waterfront from company to
5 company, and we think all of those three dimensions of
6 consistency are very important and will be hopefully
7 met by this reg project.

8 So it's very important that we get this
9 out, but we are operating under this very quick
10 timeline. And so the comment period ends, of course,
11 at the end of the month. We invite your comments by
12 any way you want to give them to us.

13 And Sue mentioned the -- did you show them
14 that slide just before? She mentioned the ways in
15 which you can get the comments to us, and we'll be
16 eagerly waiting to see them.

17 And with that, let me just again thank you
18 for your participation today. And we'll be in touch.

19 (Applause.)

20 (Whereupon, at 4:26 p.m., the proceedings
21 in the foregoing matter were concluded.)
22
23
24

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